

# **MADISON COUNTY SUBDIVISION REGULATIONS**

**Adopted April 2015 - *Ordinance 1-2015***

**Amended January 2018**

***Ordinance 1-2018, Effective March 2, 2018***

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# **Chapter I      GENERAL PROVISIONS**

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## **I-A.    TITLE**

These regulations shall be known and cited as the “Madison County Subdivision Regulations,” hereinafter referred to as “these regulations.”

## **I-B.    AUTHORITY**

Authorization for these regulations is contained in the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).

These regulations replace all previously adopted regulations entitled, “Madison County Subdivision Regulations.”

## **I-C.    EFFECTIVE DATE, APPLICABILITY**

These regulations take effect on June 1, 2015. Thereafter, they apply to all new subdivision proposals and subdivision exemption requests.

Pursuant to 76-3-604(9), MCA, subdivision review and approval, conditional approval, or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat are deemed to contain sufficient information for review. If regulations change during the element or sufficiency review (See Section II-E), the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations.

A final plat whose preliminary plat was approved under the previous regulations will be reviewed under the regulations in effect at the time of preliminary plat approval.

A subdivision exemption request is considered new if it has not yet been submitted to the Exemption Review Board. A subdivision exemption request shall be considered under the regulations in effect at the time of submission to the Exemption Review Board.

The materials included in the appendices are current as of the date of subdivision regulation adoption. The administrative forms may be modified by the Planning office over time. Other lists, documents and Administrative Rules of Montana may be modified by others.

## **I-D. PURPOSE**

Consistent with 76-3-102, MCA, the general purpose of these regulations is to:

1. Promote the public health, safety, and general welfare by regulating the subdivision of land;
2. Prevent the overcrowding of land;
3. Lessen the congestion on the streets and highways;
4. Provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements;
5. Require development in harmony with the natural environment;
6. Promote preservation of open space;
7. Promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services;
8. Protect the rights of property owners; and
9. Require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey.

Consistent with 76-1-606 and 76-3-501, MCA, these regulations are also intended to reasonably provide for:

1. The implementation of the applicable goals and objectives of the Madison County Growth Policy;
2. The orderly development of the jurisdictional area;
3. The coordination of roads within subdivided land with other roads, both existing and planned;
4. The dedication of land for roadways and for public utility easements;
5. The improvement of roads;
6. The provision of adequate open spaces for travel, light, air, and recreation;
7. The provision of adequate transportation, water, and drainage;
8. Subject to the provisions of 76-3-511, MCA, the regulation of sanitary facilities;
9. The avoidance or minimization of congestion;

10. The avoidance of subdivisions which would involve unnecessary environmental degradation;
11. The avoidance of danger or injury to health, safety, or welfare by reason of natural hazard or the lack of water, drainage, access, transportation, or other public services;
12. The avoidance of an excessive expenditure of public funds for the supply of public services;
13. The protection and enhancement of the resources of Madison County;
14. The provision for physical and legal access;
15. The manner and form of making and filing of any plat for subdivided lands; and
16. The administration of these regulations by defining the powers and duties of approving authorities, including procedures for the review and approval of all plats of subdivisions covered by these provisions.

## **I-E. JURISDICTION**

These regulations govern the subdivision of land and review of exemptions from subdivision regulations within the jurisdictional area of the governing body of Madison County.

Pursuant to 76-3-601, MCA:

1. When the proposed subdivision is situated entirely in an unincorporated area, the preliminary plat must be submitted to and approved by the governing body of the county. If a proposed subdivision lies within one (1) mile of a third-class city or town or within two (2) miles of a second-class city or within three (3) miles of a first-class city, the county governing body shall submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, the preliminary plat must be submitted to, and approved by, both the city or town and the county governing bodies.
2. When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible.
3. These regulations do not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits, pursuant to 7-3-4444, MCA.

4. If the proposed subdivision is situated within a rural school district, as described in 20-9-615, MCA, the county governing body shall provide an informational copy of the preliminary plat to school district trustees.

In addition to the requirements of 76-3-601, MCA, it is the policy of Madison County that:

1. If the proposed subdivision lies within two (2) miles of an incorporated city or town, the subdivider shall be required to submit a copy of the proposed preliminary plat to the city or town governing body; and
2. The subdivider shall be required to submit an informational copy of the preliminary plat to the trustees of the school district within which the proposed subdivision is located.
3. In accordance with 7-11-102, MCA, Madison County may enter into an interlocal agreement with each of its neighboring counties, to provide a coordinated process of application review in cases where a proposed subdivision lies partly within Madison County and partly within a neighboring county. Under this provision, each county has jurisdiction over only the lands within its borders.

The terms of any cooperative subdivision review agreement with a neighboring county shall include the following:

- a. Ability to designate a “lead” county, based on where the majority of the land is proposed to be subdivided, and/or where the majority of development is proposed to be created;
- b. Duties of the “lead” county and “non-lead” county; and
- c. Possibility of waiving or reducing the application review fees in the “non-lead” county.

These regulations supplement all other regulations. Where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply. Other regulations include, but are not limited to, zoning regulations, floodplain regulations, airport affected area regulations, buildings for lease or rent regulations, building codes, development codes and fire codes.

## **I-F. ROLES OF PLANNING BOARD AND PLANNER**

1. Pursuant to 76-1-106 and 107, MCA, the planning board serves in an advisory capacity to the governing body. Its duties include advising the governing body on all matters pertaining to the approval or disapproval of plats or subdivisions.

2. Pursuant to 76-1-306, MCA, the planner performs ministerial acts, such as providing technical assistance, to the planning board and the governing body on subdivision matters. The planner is employed by and is an agent of the governing body and shall work for the governing body in cooperation with the planning board.
3. In the event a lack of a quorum prevents the planning board from taking action on a subdivision or subdivision-related proposal, the local governing body may review and act on the proposal.

#### **I-G. SEVERABILITY**

Where any word, phrase, clause, sentence, paragraph, section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid.

#### **I-H. CONSTRUCTION TIMING**

The subdivider should not proceed with any construction work on the proposed subdivision, including grading and excavation related to public improvements, until the governing body has issued preliminary plat approval of the proposed subdivision. Any construction activity begun prior to preliminary plat approval is at the subdivider's own risk, including the risk that the work will have to be redone or removed. In addition, 76-4-121, MCA, regulates subdivision activities.

#### **I-I. PERMISSION TO ENTER**

The governing body or its designated agent(s) or agency may conduct such investigations, examinations, and site evaluations as deemed necessary to verify information supplied as a requirement of these regulations. The submission of pre-application materials shall constitute a grant of permission to enter the subject property. However, landowners or their representatives will be notified in advance of any county-sponsored field inspection, and inspections will be carried out at a reasonable time. This consent applies to members of the public attending a noticed public meeting for a site visit.

#### **I-J. NOTIFICATION OF COMPLIANCE CHECKING**

After a subdivision is approved, the governing body or its designated agent(s) or agency may conduct periodic field inspections to verify that the conditions of subdivision approval are being met. Again, landowners or their representatives will be notified in advance of any such field inspections, and inspections will be carried out at a reasonable time.

A written and signed complaint submitted to the planning board or governing body by a concerned citizen is sufficient basis to prompt a compliance check.

Where a situation of non-compliance is confirmed, the appropriate landowner(s) will be notified. The governing body may confer with the planning board prior to deciding whether or not to refer the situation to the county attorney for enforcement action, as described in Section V.E.

## **I-K. DEFINITIONS**

Whenever the following words or phrases appear in this text, they shall have the meaning assigned to them by this section. When not consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

ACCESS	<ul style="list-style-type: none"><li>a. Emergency (or Secondary) Access means an ingress or egress route available to emergency service and other vehicles during an emergency situation.</li><li>b. Legal Access means the subdivision abuts road right-of-way or easement that provides public access to the lot.</li><li>c. Physical Access means a road which conforms to County development standards and provides vehicular access to the subdivision.</li></ul>
ACCESSORY USE	A land use which is clearly secondary and incidental to the primary land use.
ADJOINING PROPERTY OWNERS	Each owner of record, and each purchaser under contract for deed of property immediately adjacent to the land being proposed for subdivision.
AFFORDABLE HOUSING	Housing that is affordable to low-or-moderate income persons as defined by the U.S. Department of Housing and Urban Development (HUD), and that is maintained for occupancy exclusively for such persons for a period of time agreed to by the subdivider and governing body.
AFFORDABLE WORKFORCE HOUSING	Affordable housing for households with earned income that is insufficient to secure quality housing in reasonable proximity to the workplace.
AGGRIEVED PERSON	A person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been

	or is likely to be specially and injuriously affected by a subdivision decision of the governing body.
AGRICULTURAL WATER USER FACILITY	Any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes.
AGRICULTURE	The practice of cultivating the ground, raising crops, and/or rearing animals.
ALIUQUOT PART	A portion of a United States government lot or section of land. For example, quarter sections are called 1/4 aliquot parts, meaning four (4) equal parts.
ALLEY	(See Road Types)
AMENDED PLAT	(See Plat)
APPLICANT	A person, or a person's agent, who submits a subdivision application under these regulations.
AQUIFER	A layer of rock which holds water and allows water to percolate through it.
ARTERIAL	(See Road Types)
AUTHORIZED AGENT	Planning Director, their designee, or other person designated by the Madison Board of Commissioners.
BIG GAME WINTER RANGE	Habitat which supports the larger hunted animals (e.g., deer, elk, and moose) during the winter months.
BLOCK	A group of lots, tracts or parcels within well-defined fixed boundaries.
BUFFER AREA OR ZONE	A landscaped area or area of natural vegetation which is intended to separate uses, partially obstruct the view between uses, and/or serve as an attractive boundary.
BUILDING	A structure having a roof supported by walls or columns, or other supports intended for the shelter or enclosure of persons, animals, or moveable property.
BUILDING ENVELOPE	On a lot, a specified area within which any and all building construction will occur.
CASH DONATION	The fair market value of the unsubdivided, unimproved land (refers to parkland dedication).
CASH-IN-LIEU	A cash payment which is made by the subdivider and which equals the assessed value of the land that would otherwise have been dedicated for park purposes.

CERTIFICATE OF SURVEY (COS)	A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations. A COS may be <u>filed</u> as a legal document to describe land divisions which are exempt from the subdivision review process.
CERTIFIED PROFESSIONAL GEOLOGIST	A geologist whose educational background, professional practice and experience, and ethical standards have been evaluated by a peer group, and are Certified as meeting the requirements of the American Institute of Professional Geologists.
CISTERN	A water storage tank which is buried underground below frost level. Cisterns for fire control must have proper hookup (e.g., dry hydrant).
CLOSE TO SERVICES	Proximity to a community offering retail, social, and community-related services such as post office, school, or community center, generally measured as being within 15 minutes of travel time to these services.
CLUSTERED DEVELOPMENT, OR CLUSTERING	Grouping houses on part of a property while maintaining a large amount of open space on the remaining land.
COLLECTOR	(See Road Types)
COMMERCIAL	Enterprises involving wholesale trade, retail trade, professional services, and/or personal services, whether leased or owned.
COMMUNITY PLAN	A publicly prepared neighborhood or vicinity plan which is adopted as an amendment of the County's overall growth policy, the community plan must be consistent with the County growth policy. A community plan is considered current if it is no more than ten (10) years old.
COMPREHENSIVE PLAN	(or master plan or "growth policy", as described in 76-1-103(4), MCA) - A publicly prepared plan which describes current and future conditions of a community or county, outlines goals and objectives for land use and other features of community life, and recommends implementation measures designed to help achieve the goals.
CONDOMINIUM	A form of individual ownership with unrestricted right of conveyance of one or more units in a multiple-unit project, with the land and all other parts of the project held in common ownership or use with owners of all units. Pursuant to 70-23-102 (5), MCA, Condominium means the ownership of single units with common elements located on property submitted to

	the provisions of the Unit Ownership Act (Title 70, Chapter 23, MCA). This term does not mean townhome or townhouse.
CONSERVATION EASEMENT	(See Easement)
CONSTRUCTION SETBACK	The minimum distance that structures may be located from lot lines, street right-of-ways, rivers, and riparian areas.
CORNER	<p>Unless otherwise qualified, this means a property corner or a property controlling corner or a public land survey corner or any combination of these.</p> <ul style="list-style-type: none"> <li>a. Property corner is a geographic point on the surface of the earth and is on, a part of, and controls a property line.</li> <li>b. Property controlling corner for a property is a public land survey corner or any property corner which does not lie on a property line of the property in question but which controls the location of one or more of the property corners of the property in question.</li> <li>c. Public land survey corner is any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.</li> </ul>
CORNER LOT	(See Lot Types)
COVENANT	<p>A limitation contained in a deed or other document that restricts or regulates the use of the real property.</p> <ul style="list-style-type: none"> <li>a. Property owners association covenants. <p>Those covenants created in conjunction with a property owners association. Such covenants outline the powers and duties of the association, including maintenance and repair of common areas, enforcement of use and building design restrictions, and establishment and collection of assessments.</p> </li> <li>b. Plat approval covenants. <p>Those covenants required by the governing body as a condition of plat approval. Such covenants may outline a wide range of development restrictions, such as fire prevention measures, wildlife protection measures, and</p> </li> </ul>

agricultural protection measures. Plat approval covenants are enforceable by the governing body.

CUL-DE-SAC	(See Road Types)
CUT AND FILL	The excavating of material in one place and depositing of it as fill in an adjacent place.
DEAD-END ROAD	(See Road Types)
DEDICATION	The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
DEFENSIBLE SPACE	An area surrounding a building or structure where measures are taken to reduce the chances of a fire spreading to or from the building or structure. Typical measures include tree thinning and removal of other flammable debris and fuel.
DENSITY	The number of buildings or housing units on a particular area of land.
DIVISION OF LAND	The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring, or contracting to transfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.
DRAINAGE	A general term applied to the removal of surface or subsurface water from a given area, either by gravity or by pumping.
DRAINAGE DETENTION STRUCTURE	A structure designed to collect and temporarily store stormwater with subsequent gradual release of the stormwater.
DRAINAGE RETENTION STRUCTURE	A structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.
DRAINAGE SYSTEM	The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature, and manufactured elements including culverts, ditches, channels, retention facilities, and storm sewers.

DRIVEWAY	A vehicular access way that typically services only one residence, but may serve two.
DRY HYDRANT	A pipe that leads to a water source, but has no pressure of its own. Firefighters attach a pump to dry hydrants and draft water from the water source to supply water to apparatus. The portion of the piping containing water must be below frost level.
DWELLING	A building or portion thereof used exclusively for residential occupancy.
DWELLING UNIT	One or more rooms for ownership, lease or rent designed, occupied or intended for occupancy by one family and physically independent of any other room or group of rooms or dwelling units which may be in the same structure.
EASEMENT	<p>A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the person who holds title to the land.</p> <p>a. Conservation easement is a voluntary restriction of land use, particularly with respect to residential development. A landowner may sell or donate a conservation easement to a public or private land trust.</p>
EMERGENCY ACCESS	(See Access)
EMERGENCY SERVICES	Community services such as fire protection, law enforcement, ambulance service, quick response, search and rescue, flood and disaster relief. Emergency services are generally provided by local governments or private, nonprofit organizations.
EMPLOYEE HOUSING	Housing in a development occupied by those individual(s) (and their families) who are employed by a business providing direct services to that development.
ENGINEERING GEOLOGY	A specialty of geology in which a knowledge of geology is necessary and relevant in the operation, design, construction, and maintenance of engineering projects.
EROSION	The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as water, wind, ice, and gravity.
EXAMINING LAND SURVEYOR	A registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.
EXEMPTION REVIEW BOARD	A board which acts under the Montana Subdivision and Platting Act to approve, conditionally approve, or deny subdivision

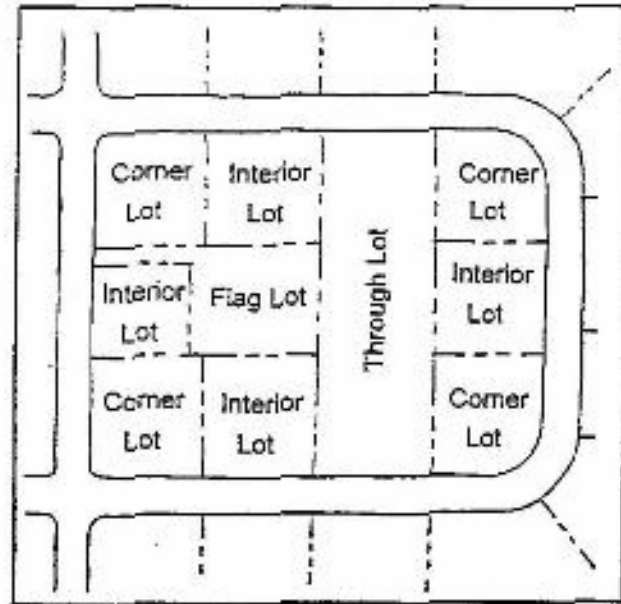
	exemption requests. In Madison County, the Exemption Review Board is composed of the county clerk and recorder, county sanitarian, and county planner or their designated alternates.
FINAL PLAT	(See Plat)
FINDING OF FACT	A written conclusion or determination based on evidence made in support of a decision.
FIRE CHIMNEY	Topographical features, usually drainageways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes.
FIRE PREVENTION SPECIALIST	County employee or consultant trained and paid to inspect proposed subdivisions and make recommendations on fire protection measures.
FIRST MINOR SUBDIVISION	(See Subdivision)
FIRST-CLASS CITY	A municipality having a population of 10,000 or more.
FISH HABITAT	The aquatic environment and the immediately surrounding terrestrial environment that, combined, are required by fish species during various life history stages.
FLAG LOT	(See Lot Types)
FLOOD PRONE AREA	Area having potential to be located in 100 year floodplain as designated on (USGS) maps dated March 10, 1997 or adopted floodplain maps.
FLOOD PLAIN	Generally the channel of a river or stream and the area adjoining a river or stream, which would be covered by floodwater of a base flood except for designated shallow flooding areas that receive less than one foot of water per occurrence. The flood plain consists of a floodway and a floodway fringe. <i>See also 76-5-103, MCA.</i>
FRONTAGE or SERVICE ROAD	(See Road Types)
GATED COMMUNITY	A development that uses a gate, manned entryway, or other device to limit public access.
GEOGRAPHIC INFORMATION SYSTEM (GIS)	A method of computer mapping that enables layers of land-related information (e.g., soils, roads, waterways, buildings) to be illustrated and analyzed in various combinations. GIS maps and databases may be used to predict future conditions under different hypothetical scenarios. <i>See also 90-1-403 MCA.</i>

GRADE	The slope of a road or other public way specified in percentage terms.
GROUNDWATER	(See High Water Table)
GROWTH POLICY	(See Comprehensive Plan)
HALF ROAD	(See Road Types)
HAZARD	Any condition, either natural or man-made, which presents danger to the public health, safety, and welfare.
HIGH FIRE HAZARD AREA	An area which is located within the wildland residential interface and which due to fire history, vegetation type and density, fuel types and loadings, topography, aspect, and other physical characteristics is more likely than not to experience a wildland fire event.
HIGH WATER TABLE (or GROUNDWATER)	This term is used to describe the vertical distance from the natural ground surface to the upper surface of groundwater (as observed in an unlined hole during the time of year when the groundwater is the highest), when that vertical distance is less than the minimum required by state and local sanitation authorities.
HISTORIC RESOURCES	Various long-established sites and structures which provide a link to the past and may be considered important to preserve. Examples of historic resources include archaeological sites, mining districts, old trails, roads and bridges, irrigation ditches, original farmsteads, homes, schools, churches, and Forest Service guard stations.
HOME-BASED BUSINESS	Commercial activity which takes place in a portion of the home or outbuilding, and which does not generate significant traffic or otherwise significantly impact the neighborhood.
HOMEOWNERS (or PROPERTY OWNERS) ASSOCIATION	A private, nonprofit corporation of homeowners or property owners, established according to state law for the purpose of owning, operating, and maintaining various common properties.
HYDROLOGY	The properties of water, including circulation and distribution, on and below the ground.
IMMEDIATE FAMILY	A spouse, children by blood or adoption, and parents.
INDUSTRIAL	Industrial enterprises involve construction, manufacturing, and/or the extraction of raw materials.
INFRASTRUCTURE	The set of interconnected structural elements that provide a framework supporting an entire structure of development.

	Facilities such as sewer and water system, roads and bridges, water supply, sewers, electrical grids, telecommunications, and buildings.
INTERIOR LOT	(See Lot Types)
IRREGULARLY SHAPED TRACT OF LAND	A parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.
LAND STEWARDSHIP PLAN	A long-term management plan that outlines how such things as vegetative health, public access, wildlife, livestock grazing, other agricultural uses, recycling, and protection of water resources will be addressed.
LANDOWNERS	Owners of record and purchasers under contract for deed.
LEGAL ACCESS	(See Access)
LICENSED PROFESSIONAL GEOLOGIST	A Professional Geologist registered by a state licensing board. Montana does not require that geologists be licensed, but many states do require licensing and require that an applicant for licensing pass an appropriate written examination and show evidence of substantial professional education and experience.
LOCAL FIRE AUTHORITY	The Madison County office of emergency management and the local fire district or department.
LOCAL ROAD	(See Road Types)
LOCATION MAP	A small map showing the location of a tract of land in relation to a larger land area.
LOOP ROAD	(See Road Types)
LOT	A parcel, plot or other land area created by subdivision for sale, lease or rent.
LOT MEASUREMENTS	<ul style="list-style-type: none"> <li>a. Lot Depth - The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.</li> <li>b. Lot Width - The width of the lot measured by averaging its two narrow dimensions.</li> <li>c. Lot Frontage - The width of the front lot line.</li> <li>d. Lot Area - The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.</li> </ul>

## LOT TYPES

- a. Corner Lot - A lot located at the intersection of two roads
- b. Flag Lot - A lot with access provided by a corridor from the road to the bulk of the lot.
- c. Interior Lot - A lot with frontage on only one road.
- d. Through Lot - A lot with frontage on two nonintersecting roads.



## LOW-INCOME HOUSING

Residential dwelling for families whose combined income does not exceed 80 percent of the median family income for the area.

## MAJOR SUBDIVISION

(See Subdivision)

## MANUFACTURED HOME

(from 15-1-101, MCA): A residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

## MINIMUM RADIUS AT EDGE OF INTERSECTION

The back of curb radius at an intersection. In areas with little or no curbing, this dimension refers to the minimum radius allowed for the intersection of the road edges.

MINIMUM STOPPING SIGHT DISTANCE	The length of roadway required for the majority of drivers to safely stop and avoid a collision with an object in the roadway.
MINOR SUBDIVISION	(See Subdivision)
MOBILE HOME	<i>(from 15-1-101-MCA)</i> : Forms of housing known as "trailers", "housetrainers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.
MOBILE HOME LOT	A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.
MOBILE HOME PARK	A tract of land providing two (2) or more mobile home lots for lease or rent to the general public.
MOBILE HOME STAND	That area of a mobile home lot which has been prepared for the placement of a mobile home.
MODULAR OR FACTORY BUILT BUILDING	A factory assembled structure or structures equipped with the necessary service connections but not made so as to be readily movable as a unit or units and designed to be used with a permanent foundation. "Factory-built building" does not include manufactured housing constructed after June 15, 1976 under the HUD National Mobile Home Construction and Safety Act of 1974(50-60-101 MCA).
MONTANA CODE ANNOTATED (MCA)	Montana statutes.
MONUMENT (PERMANENT MONUMENT)	Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument of a survey point, expressly placed for surveying reference.
MUNICIPALITY	An incorporated city or town.
NATURAL ENVIRONMENT	The physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic considerations.
NATURAL RESOURCES	The natural resources of the state and county include land, soils, natural wild and scenic areas, timber and forests, minerals, farm and grazing lands, ground water and surface water, fish and wildlife, and biotic communities.

NO BUILD ZONE	An area in which no building or structure may be constructed or otherwise placed.
NOXIOUS WEED	Any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated by administrative rule of the Montana Department of Agriculture or by a weed management district, pursuant to 7-22-2101, MCA.
OPEN SPACE LAND	<p>Land which is provided or preserved for:</p> <ul style="list-style-type: none"> <li>a. park or recreational purposes;</li> <li>b. conservation of land or other natural resources;</li> <li>c. historic or scenic purposes; or</li> <li>d. assisting in the shaping of the character, direction, and timing of community development.</li> </ul> <p>Land designated as open space may not be subdivided.</p>
ORDINARY HIGH-WATER MARK	The line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to, deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water marks.
OVERALL DEVELOPMENT PLAN (ODP)	A plan showing the future development potential of areas which are contained within a single tract, and where possible, adjoining tracts held under the same ownership, but not included in a subdivision proposal.
PATTERN OF DEVELOPMENT	<p><i>(from 76-1-605):</i> after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the:</p> <ul style="list-style-type: none"> <li>(a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;</li> <li>(b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;</li> <li>(c) adoption of zoning ordinances or resolutions.</li> </ul>

PERFORMANCE GUARANTEE	A written instrument guaranteeing the construction and installation of all required development improvements after the final plat has been filed with the county clerk and recorder.
PHYSICAL ACCESS	(See Access)
PLANNED UNIT DEVELOPMENT (PUD)	A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.
PLANNER	The planning staff for Madison County.
PLANNING BOARD	The Madison County Planning Board, created pursuant to Title 76, Chapter 1, MCA.
PLAT	<p>A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.</p> <ol style="list-style-type: none"> <li>Preliminary Plat - A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.</li> <li>Final Plat - The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).</li> <li>Vacated Plat - A plat which has been removed from the county record under the provisions of Title 76, Chapter 3, MCA.</li> <li>Amended Plat - The final drawing of any change to a platted subdivision required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).</li> </ol>
PLAT APPROVAL COVENANTS	(See Covenant)
PRELIMINARY PLAT	(See Plat)

<b>PRESCRIPTIVE EASEMENT</b>	A right to use another's property which is not inconsistent with the owner's rights and which is acquired by a use, open and notorious, adverse and continuous for the statutory period. To a certain extent, it resembles title by adverse possession but differs to the extent that the adverse user acquires only an easement and not title. To create an easement by "prescription," the use must have been open, continuous, exclusive, and under claim of right for statutory period.
<b>PRIME FARMLAND</b>	As defined by the Natural Resource Conservation Service, those lands which are best suited to producing food, feed, forage, fiber, and oilseed crops. In Madison County, prime farmland has an adequate and dependable supply of irrigation water, favorable temperature and growing season, and acceptable acidity and alkalinity.
<b>PRIME FORESTLAND</b>	As defined by the U.S. Forest Service, those timberlands which have soil capable of growing wood at the rate of 85 cubic feet or more per acre per year in natural stands and are not in urban or built-up land uses or water.
<b>PRIVATE PROPERTY RIGHTS</b>	This term applies both to the private landowner(s) proposing a subdivision and to the private landowners who show that they would be affected by a proposed subdivision, and encompasses only those rights as defined by state and federal statutes and case law.
<b>PROPERTY OWNERS ASSOCIATION COVENANTS</b>	(See Covenant)
<b>PUBLIC HEALTH AND SAFETY</b>	A condition of optimal well-being, free from danger, risk, or injury for a community at large, or for all people, not merely for the welfare of a specific individual or a small class of persons.
<b>PUBLIC IMPROVEMENT</b>	Any structure or facility constructed to serve the residents of a subdivision or the general public, such as parks, streets and roads, sidewalks, curbs and gutters, street lighting, utilities, and systems for public water supply, public sewage disposal, and drainage.
<b>PUBLIC ROAD</b>	(See Road Types)
<b>PUBLIC SERVICES</b>	Services and facilities provided to the general community by government or quasi-public entities. Examples include: roads and bridges, emergency services, schools and libraries, sewer and water systems, and solid waste disposal.

RECREATIONAL VEHICLE PARK	A place used for public camping where persons can rent or barter space to park individual camping trailers, pick-up campers, motor homes, travel trailers or automobiles for transient dwelling purposes.
RECREATIONAL VEHICLE SPACE	A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.
REGISTERED (or LICENSED) PROFESSIONAL ENGINEER	A Professional Engineer registered by the Montana State licensing board for engineers. An applicant for licensing must pass an appropriate written examination and show evidence of substantial professional education and experience. In problems involving geologic hazards, the engineer must have broad experience and education in geological engineering and engineering geology.
REGISTERED LAND SURVEYOR	A person licensed in conformance with Title 37, Chapter 67, MCA to practice surveying in the State of Montana.
REMAINDER PARCEL	That part of an original tract which is left following the segregation of other parcels from the tract for the purpose of transferring these other parcels. A remainder parcel must not have been created for the purpose of transfer. However, once created, a remainder parcel may be sold.
RESIDENTIAL DEVELOPMENT	A development that includes at least one dwelling unit, including single-family dwellings, two-family dwellings, multiple-family dwellings, fractional fee club units, timeshare units, and condominium units.
RESIDENTIAL UNIT	<p>a. a detached dwelling, semi-detached dwelling, or condominium unit;</p> <p>b. a suite or room in a hotel, a motel, an inn, a boarding house or a lodging house or that part thereof that</p> <ol style="list-style-type: none"> <li>(1) is occupied by individual(s) as a place of residence or lodging; or</li> <li>(2) is leased as a place of residence or lodging for individual(s); or</li> <li>(3) is vacant, but was last occupied or supplied as a place of residence or lodging for individual(s); or</li> <li>(4) has never been used or occupied for any purpose, but is intended to be used as a place of residence or lodging for individual(s).</li> </ol>
RIGHT-OF-WAY	A strip of land dedicated or acquired for use as a public way.

RIGHT-TO-FARM LAW	A Montana state law which excludes standard agricultural practices from being considered “nuisances” (27-30-101, MCA).
RIPARIAN AREAS	The banks and adjacent areas of water bodies, watercourses, seeps and springs whose waters provide a more moist habitat than that of adjacent uplands. Riparian areas integrate the interactions of virtually all the physical, vegetative, and biologic components of a watershed.
ROAD TYPES	<p>For purposes of these regulations, road types are defined as follows (“road” and “street” may be used interchangeably):</p> <ul style="list-style-type: none"> <li>a. Alley - A road used primarily for vehicular access to the rear of properties which abut on and are served by public roads.</li> <li>b. Arterial - A road having the primary function of moving traffic and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two (2) to four (4) lanes of moving traffic and should provide only limited access to abutting property.</li> <li>c. Collector - A road having the equally important functions of moving traffic and providing access to adjacent land. Collectors have two moving traffic lanes and up to two parking lanes.</li> <li>d. Cul-de-sac - A road having only one outlet for vehicular traffic and terminating in a turn-around area. Cul-de-sac length is the distance from the beginning of the dead-end road to the beginning of the cul-de-sac bulb.</li> <li>e. Dead-End Road - A road having only one outlet for vehicular traffic.</li> <li>f. Frontage or Service Road - A local road or collector, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.</li> <li>g. Half-Road - A portion of the width of a road, usually along the outside perimeter of a subdivision, where the remaining portion of the road must be located on adjacent property.</li> <li>h. Local Road - A road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local roads have two moving lanes of traffic and up</li> </ul>

	to two parking lanes, and they provide access to abutting properties.
	<ul style="list-style-type: none"> <li>i. Loop road - A local road which begins and ends on the same road, generally used for access to properties.</li> <li>j. Public Road - A right-of-way or easement dedicated or recorded for public access.</li> </ul>
RUNOFF	Precipitation that flows off the land without filtering into the soil or being absorbed by plant material.
RURAL SCHOOL DISTRICT	A school district in which a majority of the pupils in the district reside outside the limits of any incorporated city or town.
SECONDARY ACCESS	(See Access)
SECOND-CLASS CITY	A municipality having a population of less than 10,000 and more than 5,000.
SEDIMENT	Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity as a product of erosion.
SITE PLAN	<ul style="list-style-type: none"> <li>a. Development plan for a proposed subdivision created by rent, lease, or other conveyance.</li> <li>b. Development plan for an entire tract of record, as required in an overall development plan.</li> </ul>
SLOPE	The inclination of the surface of the land from the horizontal, prior to development.
SPECIES OF SPECIAL CONCERN	Types of wildlife and vegetation which are considered by the Montana Natural History Program and U.S. Fish and Wildlife Service to be threatened, endangered, or otherwise vulnerable to decline.
STATE	The State of Montana.
STRUCTURE	Anything constructed or erected.
SUBDIVIDER	A person who causes land to be subdivided or who proposes a subdivision of land. (See Applicant)
SUBDIVISION	A division of land or land so divided that it creates one or more parcels containing less than one hundred sixty (160) acres that cannot be described as a one-quarter aliquot part of a United States Government section, exclusive of public roadways, in

order that the title to or possession of the parcels may be sold or otherwise transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

- a. A minor subdivision contains five (5) or fewer parcels from a tract of record. Pursuant to 76-3-609(2), MCA, if a tract of record proposed to be subdivided has not been subdivided or created by a subdivision under the Montana Subdivision and Platting Act or (emphasis added) has not resulted from a tract of record that has had more than five (5) parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision (emphasis added) from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as such. Any minor subdivision that is not a first minor subdivision is a subsequent minor subdivision (emphasis added) and must be reviewed according to the major subdivision requirements.
- b. A major subdivision contains six (6) or more parcels from a tract of record.
- c. Condominiums, mobile home parks and recreational vehicle parks are subdivisions created for the purpose of renting, leasing, or otherwise conveying individual spaces or units while the tract of land is owned as one parcel under single ownership.
  - (1) First-time subdivisions from a tract of record where five (5) or fewer spaces or units would be created shall be reviewed as first minor subdivisions, so long as proper access to all spaces or units is provided.
  - (2) All other subdivisions which would create spaces or units shall be reviewed as major subdivisions.
  - (3) A landowner who places more than one mobile home on a tract of record must go through the subdivision process, in compliance with 76-3-103(15), MCA.

#### SUBDIVISION EXEMPTION

A division of land which, in accordance with the Montana Subdivision and Platting Act, is not subject to review under these regulations.

SUBSEQUENT MINOR SUBDIVISION	(See Subdivision)
SWALE	A drainage channel or shallow depression, natural or manmade, designed to direct surface water flow.
THIRD-CLASS CITY OR TOWN	A municipality having a population of less than 5,000 and more than 1,000.
THROUGH LOT	(See Lot Types)
TOPOGRAPHY	Characteristics of the ground surface, such as plains, hills, mountains; degree of relief, steepness of slope, and other physiographic features.
TOWNHOME / TOWNHOUSE	Property that is owned subject to an arrangement under which persons own their units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.
TRACT OF RECORD	<p>An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office, including: deeds, certificates of survey, subdivision plats, and mining patents.</p> <ol style="list-style-type: none"> <li>a. Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder; <ol style="list-style-type: none"> <li>(1) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or</li> <li>(2) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.</li> </ol> </li> <li>b. An instrument of conveyance does not merge parcels of land under subsection a.(1) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal</li> </ol>

description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels.

VACATED PLAT	(See Plat)
VARIANCE	A device which grants a property owner relief from a regulation standard, where strict enforcement of the standard would create a hardship upon the owner.
VICINITY MAP	A map at a scale suitable to locate the proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.
VIEWSHED	The landscape visible from a particular viewing point.
WATER BODY	Includes rivers, streams, creeks, lakes, and ponds, both natural and man-made, both intermittent and year-round. The term does not include any facility created exclusively for the conveyance of irrigation water.
WATER RIGHT	A right to use water that is protected under the provisions of Title 85, Chapter 2, MCA.
WETLANDS	As defined by the U.S. Army Corps of Engineers, (jurisdictional) wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
WILDLAND / RESIDENTIAL INTERFACE	Wildland areas which are bordered by, or intermingled with, residential and other types of development.
WILDLIFE	Living things which are neither human nor domesticated nor plant.
WILDLIFE HABITAT	Place or type of site where wildlife naturally lives and grows.

## **Chapter II**

## **SUBDIVISIONS SUBJECT TO REVIEW**

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### **II-A. PURPOSE**

The purpose of this chapter is to outline the subdivision application requirements and review procedures. One generic subdivision process is described, with exceptions noted in accordance with state law. An expedited subdivision review process for qualifying first minor subdivisions is described at the end of the chapter.

### **II-B. PRE-APPLICATION PROCEDURE**

1. Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the planner, the authorized agent designated by the governing body to review subdivision applications. The meeting shall occur within 30 days after the subdivider submits a written request for the meeting to the planner.
2. At the pre-application meeting:
  - a. The planner shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process including, but not limited to, zoning regulations, floodplain regulations, wildlife, building codes and fire codes.
  - b. The planner shall discuss with the subdivider the public utilities, local, state and federal agencies, and any other organizations that the subdivider will be expected to contact to solicit comment on the subdivision pre-application.
  - c. The planner shall also explain the subdivider's obligation to mail pre-application information to the immediately adjacent landowners, any lienholders or easement holders, and any potentially affected water users. The planner shall identify the timeframes that these parties are given to respond.
  - d. The planner shall identify particular additional information the planner anticipates will be required for review of the subdivision application. This does not limit the ability of the planner to request additional information at a later time.
3. After the pre-application meeting, the subdivider shall provide the planner with the following items, and as outlined in APPENDIX 5, Pre-application Checklist:

- a. A brief narrative which:
  - (1) Describes the proposed subdivision;
  - (2) Identifies the landowner (including names of the principals of an LLC or corporation), subdivider, and subdivider representative names, addresses, and telephone numbers;
  - (3) Includes a complete legal description of the property;
  - (4) Documents (as pertinent) the proposed subdivision as a first-time minor subdivision;<sup>1</sup>
  - (5) Documents any water rights;
  - (6) Identifies any special improvement districts or rural improvement districts; and
  - (7) Any rights of first refusal for the property.
- b. Subdivision Assessment Form. The landowner shall read, sign, and date the Subdivision Assessment Form (See APPENDIX 6).
- c. A vicinity map showing the location of the proposed subdivision in relation to nearby landmarks (e.g., highways, communities).
- d. Results of the Montana Fish, Wildlife and Parks Crucial Area Planning System Program.
- e. Names and addresses of adjoining property owners, lienholders, easement holders, potentially affected water users and property owners associations that may be affected with the early notification letter (See APPENDIX 7).
- f. A sketch plan of the proposed subdivision. The sketch plan must be legibly drawn, showing the layout of proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. If a topo map is not used as the base map for the sketch plan, the sketch plan shall be accompanied by a United States Geological Survey topographic map, with the proposed subdivision located on it. Scale dimensions of the sketch plan shall be noted. The sketch plan shall include:
  - (1) Information on the current status of the site:
    - (a) existing tract and lot boundaries;
    - (b) description of general terrain, including topography;
    - (c) natural features on the land, including water bodies;
    - (d) existing structures and improvements;

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<sup>1</sup> A proposed minor subdivision will be presumed to be a subsequent minor, unless adequate documentation is furnished to verify its status as a first time minor subdivision.

- (e) existing utility lines and facilities serving the site, including irrigation ditches and other water user facilities;
- (f) existing easements and rights of way;
- (g) existing zoning or development regulation standards;
- (h) existing conservation easements;
- (i) existing covenants or deed restrictions; and
- (j) adjacent land uses.

(2) Information on the proposed subdivision:

- (a) tract and lot boundaries;
- (b) land uses;
- (c) phasing of the development, if applicable;
- (d) public and private improvements;
- (e) location of utility lines and facilities;
- (f) easements and rights of way;
- (g) parkland, open space, and/or conservation easements; and
- (h) existing noxious weeds.

4. The planner shall determine whether or not the pre-application materials provided by the subdivider are complete. Once the planner has determined that the pre-application materials are complete, the subdivider shall provide the planner with up to 19 additional copies of the pre-application packet (minus the Subdivision Assessment Form). The planner shall distribute these copies to the planning board, local governing body, and selected review agencies. The planning board shall have the pre-application listed on its agenda at a subsequent planning board meeting. The subdivider is strongly encouraged to be present at that meeting, to field questions or hear comments from the planning board.
5. The subdivider may not send out its written notifications to review agencies, adjacent landowners, etc. until the planner has determined that the pre-application packet is complete. The planner then shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other organizations that the subdivider must contact in writing to solicit comment at the pre-application stage, and that the planner may thereafter contact to solicit comment on the subdivision application. In each case, the planner shall identify the timeframes that the public utilities, agencies, and other entities are given to respond. The subdivider shall then mail out the pre-application packet (minus the Subdivision Assessment Form), plus a cover letter that asks recipients for a response within 30 days (APPENDIX 7).
6. Unless the subdivider submits a subdivision application within one year of this pre-application meeting, the subdivider must request a new pre-application meeting and repeat the pre-application process prior to submitting the subdivision application.

7. Nothing stated by the planning board or planner during the pre-application process shall bind the governing body in its ultimate decision on the proposed subdivision.

## **II-C. OVERALL DEVELOPMENT PLAN**

### **1. Purpose**

- a. The overall development plan is intended to promote a coordinated land development and/or conservation plan for an entire tract of record and, where possible, adjoining tracts held under the same ownership.
- b. At the pre-application meeting, a subdivider proposing to subdivide only a portion of a tract of record may expect the planner or planning board to inquire as to the future development plans for the rest of the tract.

### **2. When Required**

- a. An overall development plan shall be required in conjunction with any subdivision application when only a portion of a tract of record is proposed for subdivision.
- b. The overall development plan shall be prepared and submitted to the planner for review by the planning board and governing body. The subdivider may choose to submit the overall development plan either prior to submitting the subdivision application, or at the same time. When the overall development plan is submitted prior to a subdivision application, the plan shall be submitted at least thirty (30) days prior to the planning board meeting at which it will be discussed. When the overall development plan is submitted at the same time as the subdivision application, the submittal requirements need only be satisfied once.

### **3. Exceptions**

- a. A proposed subdivision located within an area covered by an adopted and current Community Plan (See Section I-K, Definitions) that includes a map of recommended land uses is exempt from this requirement.
- b. If a subdivider has no plans for further subdivision of a tract of record or adjoining tracts under the same ownership and no history of proposing successive minor subdivisions or the creation of tracts of land through exemptions, the subdivision application package may simply contain a letter stating there are no plans for further development of the remaining property. Such letter must be signed by the landowner, and notarized.

#### 4. Information required

##### a. The overall development plan shall contain the following elements:

- (1) Site plan for total tract (showing areas of proposed development -- now and in the future, roads and utilities, and areas of proposed conservation/open space/continued agriculture or forestry). Where adjoining tracts are under the same ownership as the subject tract of record, the subdivider is encouraged to identify future development plans for these properties as well.
- (2) Topographical map.
- (3) Vicinity map.
- (4) Current land uses on total tract and adjacent properties.
- (5) Type(s) and density of proposed development.
- (6) Brief description of any proposed development phases.
- (7) Environmental assessment on the entire tract, where the overall development plan anticipates subdivision phases involving the creation of six (6) or more total lots (See APPENDIX 10). Note: If, within a ten-year period of submitting the overall development plan, the subdivider submits one or more subdivision applications covering the entire tract, all or part of the environmental assessment requirement pertaining to the individual subdivision application(s) may be waived by the planning board.
- (8) Outline of land stewardship plan for the entire tract (See APPENDIX 15).
- (9) Evidence that adjacent property owners, lien holders, easement holders, and potentially affected water users (if any, and if known) have been notified.
- (10) Evidence that the following agencies have been notified: local fire district, county office of emergency management, county sanitarian and solid waste manager, county floodplain administrator, county road supervisor, Montana Department of Fish, Wildlife and Parks, appropriate municipality and/or public land management agency if tract is located within two (2) miles of their jurisdictional boundary, or if an agency road would provide access to the proposed development.
- (11) Geological review (See Section IV-A.21 and APPENDIX 8).

## 5. Review process

### a. Public notification and public meeting

- (1) The planning board shall review the overall development plan at a regularly scheduled meeting.
- (2) The planner shall issue a notice of the public meeting by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the meeting.
- (3) The planner shall notify the subdivider, each adjoining property owner, potentially affected water users (if any, and if known) of the meeting, and any existing property owners association potentially affected by the project as determined by the planner, in writing not less than fifteen (15) days prior to the meeting.
- (4) The planner shall distribute a project notification letter to any municipality located within two (2) miles of the subject tract and to additional review agencies, as deemed necessary by the planner.

### b. Planner review

The planner shall review the overall development plan for its compliance with the subdivision review criteria outlined in Subsection II-E.2. The planner shall provide a written recommendation to the planning board in advance of its meeting to review the overall development plan.

### c. Planning board review

The planning board shall review the overall development plan, consider all other pertinent information provided, including any public comment, and make a recommendation to the governing body, as to whether the overall development plan should be accepted, accepted with amendments, or denied.

The planning board's recommendation on the overall development plan should be made separate from and prior to its recommendation on any proposed subdivision associated with the plan, although the reviews may occur simultaneously. The planning board's recommendation shall be submitted to the governing body in writing.

d. Governing body review and decision

The governing body shall review the overall development plan and consider all other pertinent information provided, at a regularly scheduled public meeting. The subdivider shall receive prior notice of the meeting and of the planning board's recommendation. The governing body shall accept, accept with amendments, or deny the overall development plan before taking action on any subdivision application associated with the overall development plan. In order to accept or conditionally accept an overall development plan, the governing body must find the plan to be in compliance with the subdivision review criteria outlined in Subsection II-E.2. The governing body shall provide written notification to the subdivider of its decision on the overall development plan, along with any plan amendments and the reasons supporting its decision.

e. Denial

If the governing body denies the overall development plan, any subdivision plat based on the plan cannot be approved.

6. Life of overall development plan

Once accepted, an overall development plan remains in effect for ten years. The subdivider can seek plan amendment and/or provide an updated environmental assessment as a part of any subdivision process which undergoes planning board review during the life of the overall development plan.

## **II-D. PRELIMINARY PLAT SUBMITTAL REQUIREMENTS**

1. Items and information required

The subdivider shall submit an application package for the proposed subdivision to the planning board and planner, in accordance with the requirements of this section and in conformance with the design and development standards outlined in Chapter IV of these regulations. APPENDIX 9 provides a checklist of the preliminary plat submittal requirements.

a. Subdivision Application Form

The subdivider shall complete a Subdivision Application Form (APPENDIX 11) with accompanying Joint Application (APPENDIX 12) and DEQ (APPENDIX 13) and/or County Sanitarian (APPENDIX 14) checklists.

b. Preliminary Plat

The subdivider shall submit a legible preliminary plat, drawn to a scale sufficient to minimize the number of sheets, while maintaining clarity. As outlined in APPENDIX 9, the preliminary plat shall show particular items on the face of the plat or on separate sheets referenced on the face of the plat. Pursuant to 76-3-601(1), MCA, the preliminary plat must show all pertinent features of the proposed subdivision and all proposed improvements.

c. Preliminary Plat Supplements

As outlined in APPENDIX 9, the subdivider shall provide additional information and materials to accompany the preliminary plat. APPENDIX 10 outlines the environmental assessment requirements, pursuant to 76-3-603, MCA. APPENDIX 13 outlines the water and sanitation requirements for submittal to the Montana Department of Environmental Quality (for lots less than 20 acres). APPENDIX 14 outlines the water and sanitation requirements for submittal to the Madison County Sanitarian (for lots 20 acres or larger).

d. Early Agency and Public Notification

In the subdivision application package, the subdivider must demonstrate that adjacent property owners, lien holders, easement holders, potentially affected water users, required review agencies and nearby municipalities, plus any existing property owners association potentially affected by the project as determined by the planner, have been given at least 30 days prior to the preliminary plat application to review subdivision plans and provide input. The early notification (pre-application) packet must have been reviewed and approved by the planner, prior to its distribution.

Any review comments received by the subdivider shall be included in the subdivision application.

e. Subdivision Review Fee

The subdivider shall pay the appropriate review fee upon submittal of the subdivision application.

f. Preliminary Plat Submittal Checklist

The subdivider shall include a completed copy of the checklist provided in APPENDIX 9.

## 2. Statutory exemptions from environmental assessment

Pursuant to 76-3-609(2), MCA, first minor subdivisions created from a tract of record are exempt from this requirement. First minor subdivisions must, however, provide a summary of the probable impacts of the proposed subdivision based on the seven public interest criteria listed in 76-3-608(3), MCA (See Section I-K, Definitions and APPENDIX 10).

## 3. Special submittal requirements

### a. Condominiums, Townhomes, Townhouses.

These subdivisions are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act, but must be submitted for review and approved by the governing body before the condominium, townhome or townhouse may be sold, rented or leased. A preliminary plat is not required. Instead, the subdivider shall submit a site plan which provides the information needed to evaluate its conformance with the applicable design and development standards outlined in Chapter IV of these regulations. For the remainder of this chapter, preliminary plat references shall pertain also to site plans unless otherwise noted.

### b. Remainder parcels

If a proposed subdivision would leave a “remainder” parcel of less than 160 acres that “remainder” parcel will be treated as an additional proposed lot. Therefore, a proposed subdivision of five lots plus a remainder parcel will be treated as a six-lot major subdivision.

### c. Water and sanitation information

Pursuant to 76-3-622, MCA, the application packet for proposed subdivisions that will include new water supply or wastewater facilities shall contain the water and sanitation items listed in APPENDIX 13 or APPENDIX 14, as applicable.

## **II-E. PRELIMINARY PLAT REVIEW PROCESS**

### 1. Steps

#### a. Submittal

One copy of the subdivision application, including preliminary plat, preliminary plat checklist (See APPENDIX 9) and application fee, may be submitted to the planner for Element Review and Sufficiency Review (see Subsections II-E.1.b. and c.), after the 30-day early agency and public notification period has occurred and within one year of the date the early

notifications were mailed by the subdivider. The preliminary plat must show all pertinent features of the proposed subdivision and all proposed improvements and must be accompanied by the preliminary water and sanitation information required under 76-3-622, MCA.

b. Element review

Within five (5) working days of receipt of the subdivision application, the planner shall determine whether the application contains all of the required materials (as listed in APPENDIX 9), and shall give written notice to the subdivider or subdivider's representative of such determination.

- (1) If the planner determines that one or more elements are missing from the application, the planner shall return the application and identify those elements in the notification, and no further action shall be taken on the application by the planner until the application is resubmitted.
- (2) The subdivider may correct the deficiencies and resubmit the application.
- (3) If the subdivider corrects the deficiencies and resubmits the application, the planner shall have five (5) working days to notify the subdivider whether the resubmitted application contains all of the required materials.
- (4) This process shall be repeated for up to one year of the original submittal date until the subdivider submits a complete application, or the application is withdrawn. If all of the required materials have not been submitted within one (1) year of the original application submittal, the application will be considered withdrawn.

c. Sufficiency review

Within fifteen (15) working days after the planner notifies the subdivider or subdivider's representative that the application contains all of the required materials, the planner shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under these regulations, and shall give written notification to the subdivider or subdivider's representative of the planner's determination.

- (1) If the planner determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the planner shall identify specific required information in its notification and return the application to the subdivider, and no further action shall be taken on the application by the planner until the material is resubmitted.

- (2) The subdivider may correct the deficiencies and resubmit the application, or withdraw the application. If the corrected submittal is not made within six (6) months of the date the planner notified the subdivider of the deficiency or a one-time extension of up to six (6) months is requested by the applicant in writing, the application will be considered withdrawn and the review fees forfeited..
- (3) If the subdivider corrects the deficiencies and resubmits the application, the planner shall have fifteen (15) working days from the resubmittal to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under these regulations.
- (4) This process shall be repeated up to three (3) times, until the subdivider submits an application that, in the planner's view, contains detailed, supporting information that is sufficient for review of the proposed subdivision under these regulations, or the application is withdrawn, or the applicant appeals to the governing body for a determination of sufficiency.

A determination that an application contains sufficient information for review as provided above does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the planner, planning board, or governing body to request additional information during the review process.

The planner's determination of sufficiency does not limit the Montana Department of Environmental Quality or County Sanitarian from requiring additional water and sanitation information as part of its review.

d. Application review and decision deadlines  
(See Chapter III for timetable example)

(1) Major Subdivisions, Subsequent Minor Subdivisions

After the planner has notified the subdivider or subdivider's representative that an application contains sufficient information as provided above, the subdivider shall submit the remaining subdivision application sets within five (5) working days, and the planner shall schedule the application review by the planning board and governing body. The governing body shall approve, conditionally approve, or deny the proposed subdivision within sixty (60) working days for subdivisions of less than 50 lots and eighty (80) working days for subdivisions of 50 lots or more, based on its determination of whether the application conforms to the provisions of state law and these regulations, unless:

- (a) The subdivider agrees to an extension or suspension of the review period, not to exceed one (1) year; or
- (b) A subsequent public hearing is scheduled and held as provided in 76-3-615, MCA.

The review period of 60 or 80 working days begins on the day after the planner notifies the subdivider or the subdivider's agent in writing that the subdivision application is sufficient for review.

## (2) First Minor Subdivisions

Pursuant to 76-3-609(2), MCA, in the case of a first minor subdivision application, the planner's determination and notification of element review and sufficiency review must be made in the same manner as outlined in subsections b. and c. above. After the planner has notified the subdivider or subdivider's representative that an application contains sufficient information as provided above, the subdivider shall submit the remaining subdivision application sets within five (5) working days, and the planner shall schedule the application review by the planning board and governing body. The governing body shall approve, conditionally approve, or deny the proposed subdivision within thirty-five (35) working days, based on its determination of whether the application conforms to the provisions of state law and these regulations, unless the subdivider agrees to an extension or suspension of the review period, not to exceed one (1) year.

The review period of 35 working days begins on the day after the planner notifies the subdivider or the subdivider's agent in writing that the subdivision application is sufficient for review.

## (3) Agency Review

Pursuant to 76-3-504(1)(i), MCA, affected public utilities or agencies of local, state, and federal government having a substantial interest in a proposed subdivision may not delay the governing body's action on the plat beyond the statutory time limits, and the failure of any agency to complete a review of a plat shall not be a basis for rejection of the plat by the governing body. However, Madison County requires that contacts with agencies be made in a timely manner, in accordance with Subsection II-D.1.d of these regulations (Early Agency and Public Notification).

Any review comments received by the planner shall be made available upon receipt to the subdivider and the general public.

#### (4) Financial Penalty

Pursuant to 76-3-604(5) MCA, if the governing body does not comply with the 60 or 80-working day deadlines, it is subject to financial penalty.

#### e. Planner analysis

- (1) Prior to the planning board meeting or public hearing to review the preliminary plat, the planner will provide the planning board with a completed checklist which documents the element review and sufficiency review (See APPENDIX 9).
- (2) The planner will evaluate the subdivision application and any comments received from agency personnel and the public. The planner's evaluation shall include completion of the Growth Policy Compliance Evaluation Checklist (See APPENDIX 16). A staff report with recommendations shall be submitted to the planning board in advance of the planning board meeting or public hearing. A copy of the staff report shall be provided to the subdivider, prior to the planning board meeting or public hearing to review the proposal.

#### f. Public notification and public hearing

- (1) Pursuant to 76-3-605, MCA, the planning board shall hold a public hearing on the preliminary plat. When a proposed subdivision is also proposed to be annexed to a municipality (See regulations for that city or town), the planning board may hold a joint hearing with the governing body or designated agent of the municipality on the preliminary plat and annexation.
- (2) The planner shall issue a legal notice of the public hearing by publication in a newspaper of general circulation in the county. Said notice should first appear not less than 15 days prior to the public hearing. The notice should run two consecutive weeks.
- (3) The planner shall notify the subdivider and each adjoining property owner (including each purchaser under contract for deed of adjoining property) of the hearing by registered or certified mail not less than 15 days prior to the date of the planning board hearing. The planner shall also notify lien holders, easement holders, potentially affected water users (if any, and if known), plus any existing property owners association potentially affected by the project as determined by the planner, of the hearing not less than 15 days prior to the hearing.
- (4) The planner shall distribute a project notification letter, plus pertinent application materials, to any municipality located within two (2) miles of

the proposed subdivision and to all pertinent review agencies, as deemed necessary by the planner. If the planner contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the planner shall notify the subdivider of the contact and the timeframe for response.

- (5) The subdivider shall post a notice of the proposed subdivision and public hearing at one or more conspicuous places on the boundaries of the proposed subdivision. The subdivider shall be responsible for taking down the notice once the local governing body has made a decision on the application. The planner may supply a pre-printed poster for the subdivider's use.
- (6) Where members of the public wish to visit a tract of land proposed for subdivision in order to participate more knowledgeably in the subdivision review process, the subdivider must provide the public a scheduled opportunity to view the site.
- (7) Pursuant to 76-3-609(2), MCA, the first minor subdivision created from a tract of record is exempted from the public hearing requirements. However, the planning board shall allow public comment at its meeting on the preliminary plat. In addition, the subdivider shall issue all notifications of the proposed subdivision and planning board meeting, as outlined above in this subsection, except that notifications may be by first class mail and should follow the format provided in APPENDIX 17.

g. Planning board review and recommendation

- (1) The planning board shall consider all relevant evidence relating to the public health, safety, and welfare, to determine whether the preliminary plat should be recommended for approval, conditional approval, or disapproval by the governing body. In reviewing the proposed subdivision and arriving at its proposed findings of fact and recommendation, the planning board shall consider:
  - (a) the information submitted by the subdivider, including the environmental assessment if required;
  - (b) the information submitted by review agencies and utilities;
  - (c) the information submitted by the public;
  - (d) the Madison County Growth Policy and any other pertinent, officially adopted growth policy for the area involved;

- (e) as applicable, the seven (7) public interest criteria pursuant to 76-3-608(3), MCA, namely, the effect of the proposed subdivision on: agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety;
  - (f) the effect of the proposed subdivision on other resources in the county;
  - (g) the effect of the proposed subdivision on the local economy;
  - (h) the effect of the proposed subdivision on public services provided by other entities in the county;
  - (i) compliance with the survey requirements detailed in 76-3-401 et seq., MCA;
  - (j) compliance with these regulations and the Montana Subdivision and Platting Act;
  - (k) the provision of easements for the location and installation of any planned utilities; and
  - (l) the provision of legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.
- (2) When a public hearing is held by the planning board, the planning board shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the preliminary plat. This recommendation must be submitted to the governing body in writing not later than ten (10) working days after the public hearing. This recommendation shall be accompanied by all public comment received, including that pertaining to water and sanitation information. The requirements of this subsection shall also pertain to the planning board meeting where a first minor subdivision created from a tract of record is reviewed.
- (3) The planning board may continue its public hearing or meeting to a subsequent date, if it determines that additional time to review the preliminary plat is needed. In such event, the planner shall repeat the public notification steps described in Subsections II-E.f.(2)-(4) above.
- (4) In its recommendation, the planning board shall advise the governing body as to whether the preliminary plat conforms to the provisions of:

- (a) the Montana Subdivision and Platting Act;
  - (b) these regulations;
  - (c) any applicable zoning regulation and/or any officially adopted growth policy and/or adopted overall development plan for the area involved; and
  - (d) other regulations in effect in the area of the proposed subdivision.
- (5) The planning board shall submit in writing the following to the governing body:
- (a) its proposed findings of fact based upon Subsection II-E.f.(1) above;
  - (b) a recommendation for approval, conditional approval, or disapproval of the plat;
  - (c) a list of proposed conditions, where conditional approval is recommended;
  - (d) a finding as to whether any public comments or documents presented for consideration at the planning board's public hearing constitute information or analysis of information that the public has not had a reasonable opportunity to examine and comment on.
- (6) In addition, the planning board shall forward all comments regarding water and sanitation to the governing body.
- (7) In order for the planning board to recommend a proposed subdivision for approval or conditional approval, its proposed findings of fact must conclude that the proposed subdivision is in compliance with all applicable rules and regulations, and that potential significant adverse impacts are reasonably mitigated or minimized for each of the seven public interest criteria, plus other resources in the county, the local economy, and public services provided by other entities in the county. Mitigating measures may be required in order to reach these findings.

Pursuant to 76-1-605(2)(b), the planning board may not recommend conditional approval or denial of a subdivision application based solely on compliance with a growth policy or based solely on the impacts to education.

- (8) The planner shall mail a copy of the planning board's recommendation to the subdivider, along with written notification of the time and place that the governing body will consider the preliminary plat.

h. Governing body review and action

- (1) No later than two (2) working days before the meeting at which the governing body is to consider the subdivision application and preliminary plat, the subdivider is encouraged to submit in writing to the planner the subdivider's comments on and responses to the planning board's recommendations.
- (2) Within the statutory time limit for action on the proposed subdivision, the governing body shall meet to review the preliminary plat and all pertinent information, including the planning board's recommendation.
- (3) Pursuant to 76-3-615, MCA, the governing body shall determine whether public comments or documents presented for consideration at the planning board's public hearing constitute new information or an analysis of information regarding the subdivision application that the public has not had a reasonable opportunity to examine and comment upon. If so, the governing body shall determine whether the public comments or documents are relevant and credible with regard to the governing body's decision, pursuant to subsections Subsection II-E.h(3)(d) and (e) below.
  - (a) If the governing body determines the new information or analysis of information is either not relevant or not credible, then the governing body shall approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information or analysis of information;
  - (b) If the governing body determines the new information or analysis of information is relevant and credible, then the governing body shall direct the planning board to schedule a subsequent public hearing.
  - (c) The planning board shall consider only the new information or analysis of information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.
  - (d) New information or analysis of information is considered to be relevant if it may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

- (e) The governing body's consideration of whether or not the new information or analysis of information is credible will include, but not be limited to, the following:
  - (i) physical facts or evidence;
  - (ii) corroborated personal observations;
  - (iii) evidence provided by a person with professional competency in the subject matter; or
  - (iv) scientific data.
- (4) If a subsequent public hearing is held pursuant to subsection (b) above, it must be held within forty-five (45) days of the governing body's decision to request the subsequent public hearing. Only the new information or analysis of information shall be considered at the subsequent public hearing.
  - (a) Notice of the time, date and location of the subsequent hearing shall be given by publication in a newspaper of general circulation in the county, not less than fifteen (15) days prior to the date of the subsequent hearing.
  - (b) At least fifteen (15) days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified mail to the subdivider and each adjoining landowner to the land included in the preliminary plat.
  - (c) The governing body shall require the notice to be posted at a conspicuous place on the site of the proposed subdivision.
- (5) If a subsequent public hearing is held, the 60- or 80-working day review period is suspended as of the date of the governing body's decision to schedule a subsequent hearing. The 60- or 80-working day review period resumes on the date of the governing body's next scheduled public meeting for which proper notice for the public meeting on the subdivision application can be provided.
- (6) Pursuant to 76-3-609(2), MCA, the first minor subdivision created from a tract of record is exempted from the public hearing requirements. Once the planning board makes its preliminary plat recommendation, the governing body may consider no new substantive information, except that pertaining to the subdivider's preference regarding mitigation of impacts, as provided in 76-3-608(5), MCA.

- (7) In arriving at its decision, the governing body shall issue written findings of fact that weigh the criteria in Subsection II-E.2. Review Criteria below, as applicable.
- (a) Findings of fact approved by the governing body concerning whether the development of the proposed subdivision meets the requirements of the Montana Subdivision and Platting Act must be based on the record of the subdivision application as a whole. The governing body's findings of fact must be sustained unless they are found to arbitrary, capricious, or unlawful.
- (8) The governing body shall approve, conditionally approve, or disapprove the preliminary plat. Approval or conditional approval of a preliminary plat includes all representations made publicly by the subdivider during the course of the subdivision application and review process. This includes the land use(s) proposed to occur in the subdivision.

In order for the governing body to approve or conditionally approve a proposed subdivision, its findings of fact must conclude that the proposed subdivision is in compliance with all applicable rules and regulations, and that potential significant adverse impact are reasonably mitigated or minimized for each of the seven public interest criteria, plus other resources in the county, the local economy, and public services provided by other entities in the county.

Pursuant to 76-1-605(2)(b), the governing body may not conditionally approve or deny a subdivision application based solely on compliance with a growth policy or based solely on the impacts to education.

- (9) Within thirty (30) working days of approving or conditionally approving a preliminary plat, the governing body shall provide the applicant with a dated and signed letter of approval that must be made available to the public. The governing body's approval or conditional approval of a preliminary plat shall be in force for three calendar years from the date of approval.
- (a) Pursuant to 76-3-604, 610 and 620, MCA, in the case of conditional approval of a preliminary plat, the governing body's written notification shall include information regarding the appeal process outlined in Chapter V of these regulations. The letter must also identify the regulations and statutes that are used in reaching the decision, and it must explain how they apply to the decision. Further, the letter must provide the facts and conclusions that the governing body relied upon in making its decision, and it must reference documents, testimony, or other materials that form the basis of the decision. Finally, the letter must provide the conditions

that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved. The governing body may, in its conditional approval, require that certain conditions (e.g., fire protection provisions) be met before other development activity occurs.

(b) Pursuant to 76-3-604(6), the governing body shall collect public comment submitted at a hearing or hearings regarding the water and sanitation information presented pursuant to 76-3-622, MCA and shall make any comments submitted, or a summary thereof, available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat. The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or summary to the appropriate reviewing authority.

(c) After a preliminary plat is approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period, pursuant to 76-3-610(2), MCA.

(d) The governing body may withdraw its approval of a preliminary plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

(10) Pursuant to 76-3-604, 610 and 620, MCA, in the case of denial of a preliminary plat, within thirty (30) working days the governing body shall provide the applicant with a dated and signed statement of disapproval that must be made available to the public. The letter must contain the items listed in subsection Subsection II-E.h(9)(a) above.

## 2. Phased Developments

- a. A subdivider applying for the review of a phased development shall submit with the subdivision application an overall phased development preliminary plat on which all of the independent development phases must be presented. The application must also contain the information required pursuant to these regulations and parts 5 and 6 of the Montana Subdivision and Platting Act for all phases of a development and must include a schedule for when the subdivider plans to submit for review each phase of the development. The subdivider may change the schedule for review of each phase of the development upon approval of the governing body after a public hearing as provided for in subsection (2)(d) below. The change in the schedule shall only be approved if the change does not

negate the original conditions of approval or otherwise adversely affect public health, safety, and welfare.

- b. Except as otherwise provided by this section, the application for the phased development must be reviewed in conformity these regulations and parts 5 and 6 of the Montana Subdivision and Platting Act. In addition, each phase of the phased development must be reviewed as provided in subsection (2)(d) below.
- c. The governing body may approve phased developments that extend beyond the time limits set forth in 76-3-610 but all phases of the phased development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date that the overall phased development preliminary plat is approved by the governing body.
- d. Prior to the commencement of each phase, the subdivider shall provide written notice to the governing body. The governing body shall hold a public hearing pursuant to 76-3-605(3) within 30 working days after receipt of the written notice from the subdivider. After the hearing, the governing body shall determine whether any changed primary criteria impacts or new information exist that create new potentially significant adverse impacts for the phase or phases. Notwithstanding the provisions of 76-3-610(2), the governing body shall issue supplemental written findings of fact within 20 working days of the hearing and may impose necessary, additional conditions to minimize potentially significant adverse impacts identified in the review of each phase of the development for changed primary criteria impacts or new information. Any additional conditions must be met before final plat approval can occur for each particular phase. The approval for each phase must be in accordance with 76-3-611 and shall not be in force for more than 3 calendar years or less than 1 calendar year within the maximum time frame of 20-years provided in subsection 2(c) above.

### 3. Review criteria

- a. Pursuant to 76-3-608(1), MCA, the basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision is whether the preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and these regulations. The governing body may not deny approval of a subdivision based solely on the subdivision's compliance with the growth policy or solely on the impacts on educational services.
- b. Pursuant to 76-3-608(3), MCA, a subdivision proposal must undergo review for the following primary criteria:

- (1) the effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety;
  - (2) compliance with:
    - (a) the survey requirements provided in 76-3-401 through 76-3-406, MCA;
    - (b) these regulations;
    - (c) the local subdivision review procedure provided for in 76-3-601 et seq., MCA;
    - (d) the provision of easements for the location and installation of any planned utilities, to and within the subdivision; and
    - (e) the provision of legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.
- c. Consistent with the authority given the governing body in 76-3-501 and 504, MCA, a subdivision proposal must undergo review for substantial compliance with the Madison County Growth Policy and the following additional criteria:
  - (1) Effect on other resources in the county;
  - (2) Effect on the local economy; and
  - (3) Effect on public services provided by other entities in the county.
- d. Pursuant to 76-3-608(4), MCA, the governing body may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection b. above. The governing body shall issue written findings to justify the reasonable mitigation required under this subsection.
- e. Pursuant to 76-3-608(5)(a), in reviewing a subdivision under subsection b. above and when requiring mitigation under subsection d. above, the governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat.

- f. Pursuant to 76-3-608(5)(b), MCA, when requiring mitigation measures under subsection d. above, the governing body shall consult with the subdivider and shall give due weight and consideration to the subdivider's expressed preferences.
- g. Pursuant to 76-3-510, MCA, the governing body may require the subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to the subdivision, as well as fire stations and firefighting equipment. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. The governing body may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education (However, contributions towards any educational facility or equipment improvements required as the result of the subdivision's expected impacts are encouraged).
- h. Pursuant to 76-3-604(7), MCA:
  - (1) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body shall require approval by the Montana Department of Environmental Quality as a condition of approval of the final plat.
  - (2) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body shall condition approval of the final plat upon the subdivider demonstrating, pursuant to 76-3-622, MCA, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot. In sensitive areas where water quantity and/or quality are a concern, the Madison County sanitarian and the governing body may require review and approval by the Montana DEQ.

## **II-F. PRELIMINARY PLAT EXTENSIONS**

- 1. Request requirements
  - a. A subdivider may request an extension of the preliminary plat approval period. No later than thirty (30) days prior to the expiration date, such request shall be submitted in writing to the planner, for review and action by the governing body.
  - b. The request must address the following points (See APPENDIX 34):

- (1) Progress made in complying with the conditions of preliminary plat approval;
- (2) Circumstances which have affected the timing of the subdivision development;
- (3) The extent to which any significant changes in the area have occurred or are expected to occur during the time of the extension period; and
- (4) Whether or not the provision of public facilities and services in the area will be disrupted by the requested extension.

## 2. Review process and criteria

- a. The extension request shall be reviewed by the planner, who shall make a recommendation to the governing body. The planner may inspect the subdivision site in developing such recommendation. The subdivider shall receive notice of the planner's recommendation and the time and place of the governing body's review of the extension request.
- b. At a regularly scheduled meeting, the governing body shall review the extension request. For any reason relating to changed circumstances since the time of preliminary plat approval, the governing body may refer the extension request to the planning board for its review and recommendation, prior to making a decision.
- c. An extension request shall be reviewed to determine whether or not the county's evaluation of the original proposal, and the findings of fact associated with the preliminary plat approval, remain valid.
- d. Pursuant to 76-3-610, MCA, the governing body may extend its preliminary plat approval for no more than one (1) calendar year, except that the governing body may extend its approval for a mutually agreed-upon period of more than one (1) year if that approval period is in writing and dated and signed by the members of the governing body and the subdivider or the subdivider's agent. Any extension may include as a specific condition a written public improvements agreement between the governing body and the subdivider for completion of all or a percentage of improvements related to public health and safety, according to 76-3-507(4), MCA.

## **II-G. FINAL PLAT SUBMITTAL REQUIREMENTS**

### 1. Items and information required

The subdivider shall submit a final plat application package for the proposed subdivision to the planner, in accordance with the requirements of this section. APPENDIX 19 provides a checklist of the final plat submittal requirements.

a. Final Plat Application Form

The subdivider shall complete a Final Plat Application Form (APPENDIX 20).

b. Final Plat

- (1) A final plat shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24" x 36" overall, to include a 1.5 inch margin on the binding side.
- (2) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
- (3) Space on the final plat shall be used efficiently in order to minimize the number of sheets, while maintaining clarity.
- (4) The final plat may constitute only that phase of the approved preliminary plat the subdivider wishes to file, provided that such phase conforms to all requirements of these regulations and is approved by the governing body in writing.

As outlined in APPENDIX 19, the final plat submitted for approval shall show or contain particular items on the face of the plat or on separate recorded sheets referenced on the face of the plat.

c. Final Plat Supplements

As outlined in APPENDIX 19, the subdivider shall provide additional information and materials to accompany the final plat, in accordance with these regulations and the conditions of preliminary plat approval.

d. Covenants

Many proposed subdivisions contain a set of proposed property owner's association covenants which will restrict land uses within the proposed subdivision, run with the land, and be filed or recorded along with the final plat. Often the issues addressed by covenants affect the public health, safety, and welfare. For this reason, the governing body may require that

certain covenants be considered “plat approval” covenants, while others will be “owners’ association” covenants. Any declaration of covenants prepared in conjunction with the filing of a final plat shall reflect this distinction.

- (1) “Plat approval” covenants will be restrictions imposed by the governing body as part of its final plat approval. Said restrictions shall not be modified without prior permission of the governing body, after an application to do so by the percentage of owners necessary to amend the declaration.
- (2) “Plat approval” covenants shall contain those restrictions deemed necessary and relevant to the proposed subdivision’s substantial compliance with the Madison County Growth Policy. Most commonly, such restrictions will pertain to matters of public health and safety, but they may also address other issues considered by the governing body to be in the public interest.
- (3) “Owners’ association” covenants shall be additional restrictions which do not involve the governing body. In particular, the governing body has no authority or responsibility to enforce such covenants.

## 2. Divisions of Land Which May be Exempt from Review and/or Surveying

- a. Generally condominiums, townhomes, or townhouses are subject to review as subdivisions. Under certain circumstances they may be exempt from review, provided they are constructed on land subdivided in compliance with these regulations or on lots within incorporated cities and towns, and
  - (1) The approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and 76-3-621, MCA is complied with; or
  - (2) The condominium, townhome, or townhouse proposal is in conformance with applicable zoning regulations when local zoning regulations are in effect.

## **II-H. FINAL PLAT REVIEW PROCESS**

### 1. Submittal

The final plat application package (application form, final plat, final plat supplements, checklist, and application fee) must be submitted to the planner at least thirty (30) days prior to expiration of the preliminary plat approval period.

## 2. Planner Review of Final Plat

Within 20 working days of receipt of a final plat, the planner shall review the final plat application package to determine whether it contains the information required under Section II-G (Final Plat Submittal Requirements) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of that determination in writing. The planner may inspect the proposed subdivision site in order to complete the review of the final plat application.

If the planner determines that the final plat does not contain the information required under Section II-G (Final Plat Submittal Requirements), the planner shall identify the final plat's defects in a written notification to the subdivider or the subdividers agent. The planner may review subsequent submissions of the final plat only for the information found to be deficient during the original review of the final plat application.

If the planner determines that an examining land surveyor must review a final plat, this requirement shall be identified in the original notification to the subdivider or the subdivider's agent. The examining land surveyor will review the final plat for errors and omissions in calculation or drafting. The subdivider is responsible for the cost of the examining land surveyor's review.

The 20 working days for the planner's review of the final plat application applies to each submission of the final plat until the planner provides the subdivider or subdivider's agent with a written determination that the final plat application contains all the information required under Section II-G (Final Plat Submittal Requirements).

Once the planner determines that the final plat application contains all the necessary information, the planner shall prepare a written recommendation to the governing body. The subdivider shall receive a copy of the planner's recommendation, as well as notification of the time and place of the governing body's meeting to review the final plat submittal.

## 3. Public improvements guarantee

Pursuant to 76-3-507, MCA, the governing body shall require the subdivider to complete required public improvements within the subdivision prior to the approval of the final plat, except:

- a. In lieu of the completion of the construction of non-essential public improvements prior to the approval of a final plat, the governing body shall at the subdivider's option allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with

surety and conditions satisfactory to the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce bond requirements commensurate with the completion of improvements. The requirement to complete certain types of improvements before accepting security to go to final plat shall apply to preliminary plats approved prior to June 1, 2015.

- b. Where public improvements are not required by the governing body to be completed prior to the filing of the final plat, normal procedures in Madison County shall be to enter into a subdivision improvements agreement with the subdivider, including an approved letter of credit or performance bond or other reasonable security equaling 125% of the anticipated costs of the improvements (See APPENDIX 21 for sample Subdivision Improvements Agreement, Guarantees, and Letter of Credit).

(1) Subdivision Improvements Agreement.

Pursuant to 76-3-507(4), MCA, only those improvements not essential to health and safety can be completed under a Subdivision Improvements Agreement (SIA).

- (a) Essential health and safety improvements include, but are not limited to, road access to the subdivision, road access to each lot, sewage disposal and water supply facilities, fire protection facilities, intersection improvement, road name signs, and traffic safety signage.
- (b) Non-essential improvements include, but are not limited to, road paving, noxious weed management practices, landscaping, and park and recreation facilities.
- (c) Individual Sanitary System: Where each lot in a subdivision is being served by an individual sanitary system it shall not be necessary to install the system before final plat approval is given. However, appropriate permits must be obtained from the Madison County Sanitarian before the individual sanitary system can be installed.
- (d) Approved Alternative Fire Protection Features and Systems may be completed through a SIA only when a SIA is required as a condition of final plat approval.
- (e) As a condition of final plat approval, the applicant must have installed all required improvements or have entered into a SIA guaranteeing the construction, installation, and maintenance of all

required improvements in conformance with all policies, standards and resolutions adopted by the County (76-3-507, MCA)

- (f) Structures may not be constructed or placed on the parcels until essential improvements related to public health and safety have been installed and engineering plans have been filed.

(2) Security Guarantee

If the applicant chooses to enter into a SIA guaranteeing the Non-Essential improvements, the applicant must have an acceptable monetary security guarantee in the form of a bond, escrow account, surety performance bond, irrevocable letter of credit, or other acceptable guarantee accepted by the Commission. Three bids for the cost of installation of the public improvements shall be obtained by the applicant. The amount of the guarantee shall be calculated by multiplying 125% by the highest bid. The Madison County Commission shall be the final decision authority regarding all bids related to a SIA.

(3) Phased Development

Where a subdivision is to be developed in phases, a phase plan shall be prepared by the applicant, and reviewed and approved by the Board of Commissioners ("Board"), or its designated agent. The phase plan shall be submitted with the preliminary plat. The phase plan shall be included in the SIA and shall describe which parcels are included in each phase, what improvements shall be completed with each phase, and the approximate completion date of each phase.

- (a) Improvements included in the first phase shall be constructed or guaranteed using one of the acceptable monetary security guarantees prior to final plat approval by the Board.
- (b) The plat approval for each succeeding phase will be contingent upon completion of all improvements in each preceding phase and acceptance of those improvements by the Board.
- (c) If all improvements in each phase are not completed, parcels within subsequent phases shall be restricted from being transferred, sold or developed.
- (d) The restriction on transferring, selling, and development is released and filed with the Clerk & Recorder only after the necessary improvements for each particular phase are constructed, reviewed, and accepted by the County, or guaranteed using one of the acceptable monetary security guarantees.

(4) Reduction of Guarantees

In those cases where monetary security guarantees have been made, the amount of the guarantee may be reduced upon installation and acceptance by the Board of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made of all originally required improvements.

(5) Completion of Improvements; Certification

As the public improvements are installed, the applicant shall provide a letter to the County indicating such, including a copy of the engineered plans.

- (a) The County- designated agent or consulting engineer designated by the County shall review and certify that all public improvements have been installed in conformance with the plans and specifications.
- (b) If the County determines that a consulting engineer is needed to review and certify the public improvements, the applicant shall pay for the cost of the engineering services.
- (c) Prior to the release of the guarantee a copy of the plans, stamped by the project surveyor or engineer in accordance with their licensing provisions, shall be filed in the Clerk and Recorder's office with reference to the final subdivision plat.

(6) Improvement Guarantee

The applicant shall provide a guarantee that the improvements will be satisfactorily completed and are guaranteed for 12 months.

(7) Release of Guarantee

Upon completion of required improvements by the applicant and acceptance of them by the County, the applicant may request that the County authorize the release of any remaining portion of the improvement guarantee up to 90% of the original amount. The remaining 10% will be released after any deficiencies are corrected after the one year warranty inspection. The request and release shall both be in writing.

(8) Rural and Special Improvement Districts

The Board may enter into an agreement with the applicant, and the owners of the property proposed to be subdivided if other than the applicant, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title

7, Parts 12 and 41, MCA. This agreement must provide that no parcels within the subdivision will be sold, rented or leased, and no contract for the sale of parcels can be executed before the improvement district has been created.

The applicant, or other owners of the property other than the applicant, must also petition the Board to create a rural improvement district, which constitutes a waiver by the applicant or the other owners of the property of the right to protest, or petition against the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the County Clerk and Recorder and will be deemed to run with the land.

#### 4. Application review and decision process

- a. Within 20 working days of the planner's written determination that the final plat application contains all of the necessary information, the governing body shall review and approve or deny the final plat. Pursuant to 76-3-611, MCA, the governing body shall examine each final subdivision plat and shall approve the plat only if:

- (1) It conforms to the conditions of approval set forth on the preliminary plat and to the terms of the Montana Subdivision and Platting Act and these regulations; and
- (2) The county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

- b. Final plat conformance

The final plat submitted shall conform in all major respects to the preliminary plat as previously reviewed and approved by the governing body and shall incorporate all modifications required in its review. The governing body, however, may approve a final plat which has been modified to reflect improvements in design (such as a reduction in lots) or changes which have occurred in its natural surroundings and environment since the time of the preliminary plat review and approval.

For any reason relating to compliance with the conditions of preliminary plat approval or proposed modifications of the plat, the governing body may refer the final plat submittal to the planning board for review and recommendation, prior to making a decision.

The governing body may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the county clerk and recorder. When the

survey data shown on the plat meets the surveying and filing requirements of the Montana Subdivision and Platting Act, the examining land surveyor shall certify the compliance in a printed or stamped certificate on the plat. The certificate must be signed by the examining land surveyor.

The governing body may provide for the review of the abstract or certificate of title of the land in question by the county attorney.

The governing body shall review and act on the final plat within 20 working days of the planner's determination that the final plat is complete, as follows:

- (1) Final plat approval shall be certified by the governing body on the face of the final plat. Acceptance of any land dedication(s) shall be made by specific resolution of the governing body and noted on the plat.
- (2) If the final plat is disapproved, the governing body must provide a written statement to the subdivider explaining the reasons for the plat denial. The subdivider may make the necessary corrections and resubmit the final plat for approval.
- (3) The governing body may withdraw approval of a final plat if it determines that such information provided by the subdivider, and upon which such decision was made, is inaccurate.

## 5. Final Plat Filing

After it is approved, the final plat may not be altered except as provided in Section V-H Amendment of Recorded Plat. The County Clerk and Recorder may not accept any plat for filing that does not bear the Board of Commissioner's approval in proper form or that has been altered. The County Clerk and Recorder may file an approved plat only if it accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats, referenced in APPENDIX 3.

## **II-I. EXPEDITED REVIEW PROCESS**

### 1. Purpose

First minor subdivisions that are located in areas covered by an adopted and current Community Plan (see Section I-K for definition) warrant a simpler review process.

In accordance with 76-3-609(2)(f), MCA, this section outlines an expedited review process, whereby the planning board is not involved beyond the pre-application phase.

## 2. Steps

- a. Overall development plan. Where only a portion of an existing tract of record is proposed for subdivision, and where the adopted and current Community Plan includes a map of recommended land uses, the ODP requirement shall be waived.
- b. Pre-application meeting. The pre-application requirements outlined in Section II-B still apply.
- c. Preliminary plat application and review. The process is identical to that described in Sections II-D and II-E, except that the steps involving review by the planning board do not occur.
  - (1) The planner reviews the application and, based upon the considerations outlined in Section II-E, makes a recommendation directly to the governing body.
  - (2) The governing body reviews the application according to the criteria outlined in Section II-E. The governing body may receive public comments prior to making its decision to approve, conditionally approve, or deny the preliminary plat.
- d. The final plat application and review process shall occur in the same manner as described in Sections II-G and II-H.

## **II-J. ROLE OF THE PUBLIC IN SUBDIVISION REVIEW**

The public plays an important role in the review of a proposed subdivision. Public input often expands the information base pertinent to the proposed subdivision site and its environs.

Members of the public can offer their verbal input at any public hearing or public meeting of the planning board or governing body. Citizens can also make their comments in writing, to either group.

The public is encouraged to participate in the subdivision review process.

## **II-K. ROLE OF PUBLIC AGENCIES IN SUBDIVISION REVIEW**

County, state, and federal agencies also play an important role in the review of a proposed subdivision. APPENDIX 1 identifies which agencies must be contacted prior to the submission of an overall development plan or subdivision application. Whether local service provider, public resource manager, or public land manager, agency representatives should always be asked to consider cumulative impacts when they assess the potential effects of a proposed subdivision.

## **Chapter III**

## **SUMMARY TABLES**

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This Chapter provides summary tables of the subdivision application and review procedures outlined in Chapter II of these regulations. These summary tables are a guide, but the more complete procedures in Chapter II are controlling.

Summary tables provided are:

1. “First Minor” Subdivision
2. “Major” Subdivision or “Subsequent Minor” Subdivision
3. Expedited Review of “First Minor” Subdivision
4. Sample Timeline

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## **“FIRST MINOR” SUBDIVISION**

### **Typical Subdivision Application and Review Process for**

---

- Five or Fewer Lots
  - Five or Fewer Spaces or Units -- Mobile Home Parks, Recreational Vehicle Parks, Condominiums, or Townhouses
- 

**STEP ONE.** Pre-Application Meeting with Planner and Packet Preparation.

- Fees paid.
- Planner approves pre-application packet, and pre-application appears on Planning Board agenda.
- Subdivider should also meet at this stage with the County Sanitarian.

**STEP TWO.** Early Notification.

- Subdivider sends out early notifications after Planner approves the packet.

**STEP THREE.** Preliminary Plat Application Submittal and Review.

- Submit one copy of the subdivision application packet, plus application review fee, to Planner for element review and sufficiency review.

**STEP FOUR.** Additional sets submitted.

- Once subdivision application packet has passed the element and sufficiency reviews, 20 additional sets must be submitted within five (5) working days (19 to Planning Office, 1 to local public library).
- Thirty-five (35) working day “clock” begins day after written notice of sufficiency.

**STEP FIVE.** Second Notification.

- Subdivider sends out second notifications
- Subdivider posts property.

**STEP SIX.** Planning Board Review.

- Planning Board reviews subdivision application and makes recommendation at public meeting.

**STEP SEVEN.** Governing Body Decision.

- Governing Body reviews subdivision application and makes decision at public meeting.

**STEP EIGHT.** Final Plat Submittal.

- Assuming approval or conditional approval of preliminary plat, submit final plat application package (including final plat review fee) to Planner for review and acceptance..
- Materials must be submitted prior to the expiration of the preliminary plat approval period.

**STEP NINE.** Final Plat Approval.

- After Governing Body reviews final plat and makes decision at public meeting.
- Assuming final plat approval, final plat is recorded.

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## **“MAJOR” SUBDIVISION OR “SUBSEQUENT MINOR” SUBDIVISION**

### **Typical Subdivision Application and Review Process for**

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- Six or More Lots or Six or More Spaces or Units -- Mobile Home Parks, Recreational Vehicle Parks, Condominiums, or Townhouses
  - Five or Fewer Lots, Subsequent Minor Subdivision from a Tract of Record
  - Five or Fewer Spaces or Units, Subsequent Minor -- Mobile Home Parks, Recreational Vehicle Parks, Condominiums, or Townhouses
- 

#### **STEP ONE.** Pre-Application meeting with Planner and Packet Preparation.

- Planner approves pre-application packet.
- Fees paid.
- Pre-application appears on Planning Board agenda.
- Subdivider should also meet at this stage with the County Sanitarian.

#### **STEP TWO.** Early Notification.

- Subdivider sends out early notifications after the Planner approves the packet.

#### **STEP THREE.** Preliminary Plat Application Submittal and Review.

- Submit one copy of the subdivision application packet, plus application review fee, to Planner for element review and sufficiency review.

#### **STEP FOUR.** Additional Sets Submitted.

- Once subdivision application packet has passed the element and sufficiency reviews, 20 additional sets must be submitted within five (5) working days (19 to Planning Office, 1 to local public library).
- Sixty (60) or eighty (80) working day “clock” begins day after written notice of adequate sufficiency review.

#### **STEP FIVE.** Second Notification.

- Planner issues legal notices
- Subdivider posts property.

#### **STEP SIX.** Planning Board Review.

- Planning Board reviews subdivision application and holds public hearing.
- Planning Board makes recommendation.

#### **STEP SEVEN.** Governing Body Decision.

- Governing Body reviews subdivision application and makes decision at public meeting.

#### **STEP EIGHT.** Final Plat Submittal.

- Assuming approval or conditional approval of preliminary plat, submit final plat application package (including final plat review fee) to Planner for review and acceptance.
- Materials must be submitted prior to the expiration of the preliminary plat approval period.

#### **STEP NINE.** Final Plat Approval.

- Governing Body reviews final plat and makes decision at public meeting.
- Assuming final plat approval, final plat is recorded.

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## **EXPEDITED REVIEW OF “FIRST MINOR” SUBDIVISION**

### **Typical subdivision application review process for**

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**NOTE:** Property must be located in an area covered by a current Community Plan.

- Five or Fewer Lots
  - Five or Fewer Spaces or Units -- Mobile Home Parks, Recreational Vehicle Parks, Condominiums, or Townhouses
- 

**STEP ONE.** Pre-Application Meeting with Planner and Packet Preparation.

- Planner approves pre-application packet.
- Fees paid.
- Pre-application appears on Planning Board agenda.
- Subdivider should also meet at this stage with the County Sanitarian.

**STEP TWO.** Early Notification.

- Subdivider sends out early notifications after the Planner approves the packet.

**STEP THREE.** Preliminary Plat Application Submittal and Review.

- Submit one copy of the subdivision application packet, plus application review fee, to Planner for element review and sufficiency review.

**STEP FOUR.** Additional Sets Submitted.

- Once subdivision application packet has passed the element and sufficiency reviews, ten additional sets must be submitted within five (5) working days (9 to Planning Office, 1 to local public library).
- Thirty-five (35) working day “clock” begins with notice of sufficiency.

**STEP FIVE.** Second Notification.

- Subdivider sends out second notifications and posts property.

**STEP SIX.** Governing Body Review and Decision.

- Governing Body reviews subdivision application and makes decision at public meeting.

**STEP SEVEN.** Final Plat Submittal.

- Assuming approval or conditional approval of preliminary plat, submit final plat application package (including final plat review fee) to Planner for review and acceptance.
- Materials must be submitted prior to the expiration of the preliminary plat approval period.

**STEP EIGHT.** Final Plat Approval.

- Governing Body reviews final plat and makes decision at public meeting.
- Assuming final plat approval, final plat is recorded.

## SUBDIVISION APPLICATION REVIEW TIMETABLE - EXAMPLE

Step	Statutory and/or County Deadline	Estimated Date		
Pre-Application				
Planner receives written request for Pre-Application meeting.		June 1, 2015		
Pre-Application meeting with planner is held.	Within 30 days of receipt of written request.	By June 30, 2015		
Subdivider sends out Early Notifications to Neighbors and Agencies.	After Pre-Application meeting and planner approval of packet	July 1, 2015		
Planning Board has Pre-Application on agenda.		July 27, 2015		
Preliminary Plat				
Subdivider submits Subdivision Application + Fee to Planner.	No earlier than 31 days after Early Notifications are sent.	August 3, 2015		
Element Review Completed by Planner	5 working days of application submittal.	By August 10, 2015		
Sufficiency Review Completed by Planner	15 working days of Element Review OK.	By August 31, 2015		
Application Review “Clock” Begins.*	Upon Sufficiency Review OK.	August 31, 2015		
		Subdivision Type		
		“Major” (1-49 lots) “Subsequent Minor” (1-5 lots)	“Major” (50+ lots)	“First Minor” (1-5 lots)
Planning Board Meeting and Recommendation		(public hearing) September 28, 2015		September 28, 2015
Governing Body Review and Action		October 4, 2015		October 4, 2015
DECISION DEADLINE*	60, 80 or 35 working days	November 27, 2015	December 28, 2015	October 21, 2015

\* Until the subdivision application is quite far along in the process, there is no assurance of a decision deadline date.

## Chapter IV

# DESIGN AND DEVELOPMENT STANDARDS

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All subdivision applications will be reviewed against the provisions of this chapter. Subdivisions approved by the governing body shall comply with all applicable provisions, except where modifications are allowed in the review of planned unit developments (PUDs) and except where a proposed subdivision is granted a variance pursuant to Chapter V of these regulations. These standards will apply unless more stringent standards are subsequently adopted by Madison County.

### IV-A. GENERAL STANDARDS

1. Conformance to existing policies and regulations
  - a. All subdivision plats should be in substantial compliance with the Madison County Growth Policy (See APPENDIX 16 for a checklist of plan compliance elements). Substantial compliance, in these regulations, means that a proposed subdivision is reasonably consistent with the guiding principles, goals and objectives, and development policies outlined in the Growth Policy. A proposed subdivision may deviate from one or more of the plan compliance elements and still be found in substantial compliance. Such deviations should be few in number and limited in scope and severity.
  - b. However, in accordance with 7-1-606, MCA, the governing body may not withhold, deny, or impose conditions on a proposed subdivision based solely on compliance with the Madison County Growth Policy.
  - c. All subdivision plats shall comply with applicable laws, ordinances, and regulations. This includes but is not limited to:
    - (1) All applicable provisions of the Montana Code Annotated (MCA), as amended, including the Montana County Noxious Weed Control Act;
    - (2) The requirements of the Montana Department of Transportation, if the subdivision or any lot contained therein abuts a state highway or connecting street;
    - (3) The regulations of the Montana Department of Environmental Quality;
    - (4) Any Madison County or municipal zoning regulations which have been adopted for that area;

- (5) The regulations of the Madison County Health Department;
- (6) Any other applicable regulations of Madison County;
- (7) City or town access requirements, if the subdivision or any lot contained therein abuts a city or town street; and
- (8) Any other regulations applicable to the land proposed for subdivision, such as irrigation or fire district regulations.

In addition, subdivisions shall comply with the following fire codes<sup>2</sup>:

- (1) For commercial, industrial and mixed use subdivisions, the design and development standards of the Uniform Fire Code adopted by the State of Montana; and
  - (2) For all subdivisions, the design and development standards of the Urban-Wildland Interface Code prepared by the International Fire Code Institute.
- d. All subdivision plats shall be reviewed against the seven (7) public interest criteria listed in 76-3-608(3), MCA and against three (3) additional criteria which reflect additional issues of concern to Madison County (APPENDIX 10 includes guidelines for the consideration of these ten (10) public interest criteria).

In particular, all subdivision plats shall:

- (1) Contain satisfactory building sites which are properly related to topography, and shall preserve the natural terrain, natural drainage, existing topsoil, wildlife corridors and habitats, trees and natural vegetation to the maximum extent possible.
- (2) Include revegetation plans for those areas disturbed during construction. Such areas shall be reseeded with vegetation types that have been recommended by the Natural Resources Conservation Service or the MSU County Extension Office and approved by the governing body.

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<sup>2</sup> ...Where the standards contained in the two fire codes are higher than those outlined in these county subdivision regulations, or where they cover fire protection issues not specifically addressed in these county subdivision regulations.

## 2. Design by licensed professionals

As deemed necessary to protect the public health, safety, and welfare, the governing body may require engineering and survey plans, specifications, and reports required in connection with public improvements associated with a proposed subdivision to be prepared by a registered professional engineer in accordance with the Montana Subdivision and Platting Act and these regulations. The governing body may require the subdivider to engage the services of licensed professionals in order to design other subdivision elements and/or the geotechnical assessment required based on the Geotechnical Review Checklist (APPENDIX 8).

## 3. Lands considered unsuitable for development

### a. Areas of natural or human-caused hazards

Lands which are considered unsuitable for subdivision development include, but are not limited to, areas where one or more of the following hazards exists or potentially exists:

- (1) Flooding;
- (2) Swelling soils;
- (3) Snow avalanches;
- (4) Rock falls;
- (5) Landslides;
- (6) Steep slopes in excess of 25% grade;
- (7) Subsidence or slumping;
- (8) High water table;
- (9) Polluted or non-potable water supply;
- (10) High voltage lines or high pressure gas lines;
- (11) Air pollution or vehicular traffic hazards or congestion;

Pursuant to 76-3-504(1)(e), MCA, subdivision of any such lands is prohibited unless the hazard(s) can be eliminated or overcome by approved construction techniques.

b. Floodways and other waterways

Pursuant to 76-3-504(1)(f), MCA, proposed subdivisions which would allow building in areas located within the floodway of a flood of a 100-year frequency as defined by Title 76, Chapter 5, or determined to be subject to flooding by the governing body, are prohibited.

- (1) Where a proposed subdivision is located along a stream, the subdivider shall consult the County Floodplain Administrator and provide whatever survey data and other pertinent information may be required to comply with the Madison County Floodplain Management Ordinance (See Sections IV-B.1 and IV-B.2 for further requirements and discussion. See also APPENDIX 31).
- (2) The subdivider may be required to supply the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation (DNRC) with the information outlined in APPENDIX 31 of these regulations, so that the agency can prepare a flood hazard evaluation and report delineating the floodway. When required, such report shall be submitted to the planning office as a part of the subdivision application. The planning board shall waive this requirement where the subdivider contacts the DNRC, and the DNRC states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.

c. Riparian areas

d. Areas which would unreasonably burden the general public due to:

- (1) An excessive expenditure of public funds;
- (2) Environmental degradation;
- (3) Adverse impact on resource production, management, or improvement; or
- (4) Some other threat to the health, safety, and welfare of existing or future residents.

4. Land use

Appropriateness of the proposed land use (e.g., agricultural, residential, commercial, industrial, or mixed use) will be considered in the review of the subdivision application package. Different types of land use have different types of impacts. Accessory uses are allowable, and home-based businesses in residential subdivisions are also allowable (See Section I-K, Definitions).

## 5. Standards for lots (Refer to Section I-K, Definitions)

Lot size, width, shape and orientation shall be appropriate for the location and contemplated use(s) of the subdivision. For topographical reasons or other resource concerns, each lot may be required to contain a specified building envelope (see subsection 6. below). Where no zoning regulations are in effect, the subdivider should propose densities, lot sizes, and building envelopes only after consulting with local and/or state health authorities, reviewing the Madison County Growth Policy and Madison County Soil Survey, and considering the character of the area where the proposed subdivision is located.

Specifically:

- a. No single lot shall be divided by a municipal or county boundary line.
- b. No single lot shall be divided by a road, alley, or utility right-of-way or easement which would reduce the buildable area to a size less than required by these and any other adopted regulations.
- c. No lot shall be surrounded by another single lot.
- d. Each lot shall have legal access. Alleys may not be used to provide the primary means of access to a lot.
- e. Each lot shall have physical access, according to the road design and development standards outlined in this Chapter.
- f. Lots shall have a width sufficient to allow normal construction without said construction encroaching on property lines.
- g. No lot should have an average depth greater than three (3) times its average width. Narrower lots may be allowed where the proposed subdivision design will provide clear benefits (e.g., preserve open space, protect natural resources, maintain agricultural land in production).
- h. Corner lots. Corner lots should have driveway access to the same road as interior lots. Corner lots must be of sufficient area to provide acceptable visibility for traffic safety.
- i. Through lots. Through lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.
- j. Flag lots. Flag lots shall not be used to avoid road construction.

## 6. Building envelopes

Building envelopes may be required on small lots (less than five acres) and/or lands with environmentally sensitive features, as determined by the governing body. Building envelopes shall be shown either on the final (or summary) plat, or on a building envelope plan filed with the final (or summary) plat and be referenced on the plat. A copy of any building envelope plan shall also be provided to the planner and kept on file in the planning office.

Where building envelopes are included on the final plat, a building envelope change will require an amended plat (see Chapter V-H. of these regulations and APPENDIX33). Where a building envelope plan is filed instead, a building envelope change will require the planner's review and approval. A proposed building envelope change may be brought before the planning board for review. Appeal of the planner's decision regarding a change in building envelope may be made to the governing body.

## 7. Standards for blocks

Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use(s) contemplated, and to consider the opportunities and/or constraints presented by the topography and other natural features.

## 8. Walkways and bikeways

- a. Pedestrian walks. Pedestrian walks may be required in order to provide circulation or safe access to schools, playgrounds, shopping, transportation, and other community facilities.
- b. In areas where sidewalks are required, the subdivider shall make the appropriate arrangements with the United States Postal Service for the placement of mailbox sleeves. Mailboxes and/or sleeves shall not be placed in the sidewalk. The boxes shall be either consolidated at one location, or the sidewalk shall be placed a sufficient distance from the curb to create a boulevard for mailbox placement. Where walkways meet roadways, adequate sight distance shall be maintained to ensure safe pedestrian travel.
- c. Bikeways may be considered in the planning of a subdivision. Bikeways should be built to the minimum standards given in the American Association of State Highway & Transportation Officials (AASHTO) Guide for the Provision of Bicycle Facilities.

## 9. Roadways, general standards

All roadway improvements shall meet the standards outlined below unless more stringent standards are subsequently adopted by Madison County.

### a. Subdivision design.

The roadway system of a proposed subdivision shall be designed after giving due consideration to existing and other planned roads, topographical and other natural conditions, public convenience and safety, and the proposed land use(s) to be served.

### b. Roadway improvements

- (1) Subdivision roadway improvements shall be required wherever the governing body determines that current access to lots within a proposed subdivision is inadequate. "Roadway improvements" refer to: subgrade preparation; placement of base course and surface material; construction of bridge and drainage systems; and, where required, construction of sidewalks, curbs and gutters.

#### (a) Substandard county-maintained roads

Where a proposed subdivision is accessed by a substandard county-maintained road slated to be improved by the county in the foreseeable future, and where improvement of the road is deemed necessary to protect public health and safety, the governing body may require the subdivider to pay the county an amount equal to the pro rata share of the improvements needed to bring said road up to the Madison County Road Standards. In areas where the county has no foreseeable plans to complete the necessary improvements to upgrade the road, the subdivider may be required to pay the total cost of bringing the road up to county standards. In such a case, any other subdivisions which are approved over the subsequent ten-year period and which will benefit from the improved county-maintained road shall reimburse the original subdivider, through the county, a pro rata share of the original roadway improvement cost.

#### (b) Other substandard roads

Where a proposed subdivision is accessed by a substandard road not maintained by the county, the subdivider shall be required to make all roadway improvements necessary to bring the road up to the subdivision road standards outlined herein. In such a case, any other subdivisions which are approved over the subsequent ten-

year period and which will benefit from the improved road shall reimburse the original subdivider, through the county, a pro rata share of the original roadway improvement cost.

- (2) As outlined in Chapter II, Section H.3. of these regulations, all required roadway improvements shall be completed prior to the filing of the final plat, or shall be guaranteed by the subdivider through an approved letter of credit or performance bond or other reasonable security equaling 125% of the anticipated costs of the improvements.
- (3) Where roadway improvements within a subdivision are required to be designed by and constructed under the supervision of a registered professional engineer, as-constructed drawings stamped by the engineer will be submitted to the governing body.

Upon completion of such roadway improvements, the registered professional engineer shall certify that said roadway improvements meet the standards herein. Such certification shall occur in accordance with the conditions of subdivision approval. In some instances, the engineer's certification will be required as a prerequisite to the filing of the final plat. Where the improvements are not required to be constructed and certified prior to the filing of the final plat, the engineer's certification will be a condition of the governing body's issuance of a Satisfaction of Improvements Guarantee. The governing body may choose to not issue a Satisfaction of Improvements Guarantee until a specific period of time has passed, so that the performance of the guaranteed improvement can be properly evaluated.

c. Road access

Roads providing primary access to and through a proposed subdivision must be accessible to the public, via:

- (1) Rights-of-way dedicated for public use;
- (2) Recorded public access easements; and/or
- (3) Recorded roads in subdivisions in existence before November 2000 that have no history of ever blocking public access, and for which a homeowners association has recorded a "plat approval" covenant that assures continued public access.

"Gated Communities" are not permitted.

Subdivision roads shall be maintained by the property owners within the subdivision. Subdivisions that do not abut a public road maintained by Madison County or the State of Montana may be required to have a long-term maintenance agreement with the responsible party (e.g., Forest Service or Bureau of Land Management or other subdivision). Madison County will not be responsible for subdivision road maintenance.

Primary roads must be maintained in passable condition on a year-round basis. If Madison County doesn't have the resources to maintain a county road, the property owners within the proposed subdivision may be required to enter into a maintenance agreement with the county.

d. Relation to adjacent areas

(1) When a proposed subdivision will adjoin unsubdivided land and reasonable access thereto must pass through the new subdivision, roads and right-of-way may be required so as to allow suitable access to the unsubdivided land. In such cases, proposed roads shall be extended to the boundary lines of the tract to be subdivided. Said access should be negotiated between the affected landowners.

Where a prescriptive easement exists, it may be required to be shown on the final plat.

(2) When a new subdivision will adjoin subdivided land, the arrangement of roads in the new subdivision may be required to provide for the continuation of roads from the adjacent subdivided properties, when such continuation is practical and necessary for the convenient movement of traffic, effective provision of emergency services, and efficient provision of utilities.

e. Separation of through and local traffic

Where a proposed subdivision abuts or contains an existing or proposed highway or major thoroughfare, the governing body may require frontage roads or other access controls, deep lots, screen plantings, or other such measures to protect public safety, enhance the character of the subdivision, and ensure separation of through and local traffic. Minor roads shall be laid out so their use by through traffic is discouraged.

f. Parallel rights-of-way

Where a subdivision borders on or contains a railroad, limited access highway, canal, ditch, or stream right-of-way, the governing body may require construction of a road parallel to and on each side of such right-of-way, at a distance suitable to allow for the appropriate use of the intervening right-of-way. Such distance shall also be determined with due regard for the requirements of approach grades and future grade separation.

g. Dead-ends

No dead-end roads shall be permitted without a cul-de-sac or, if the road serves less than five homes, a hammerhead or tee turnaround.

h. Half-roads

Half-roads are prohibited except where essential to the development of the subdivision and where the governing body is assured that it will be possible to require the dedication of the other half of the road when the adjoining property is subdivided. Wherever an existing half-road is adjacent to a tract to be subdivided, the other half of the road shall be platted within the tract.

i. Emergency (or secondary) access

To facilitate traffic, the provision of emergency services, and the placement of utility easements, an emergency access may be required of any subdivision if it is determined that a single road may be impaired by vehicle congestion, condition of terrain, climatic conditions, or other factors that could limit access or emergency egress. Specifically, any proposed subdivision located in an area of wildland/residential interface shall be required to have an emergency access. Emergency access shall be year-round if the county office of emergency management, after consultation with local emergency service providers, recommends such.

j. Intersections. Intersection design shall conform to accepted traffic safety and engineering standards.

Intersections of local roads with major arterials or highways shall be kept to a minimum. Frontage roads may be required.

k. Road names and addressing

- (1) A new road aligning with an existing road shall have the same name as the existing road; and
- (2) A street addressing plan developed in accordance with Madison County's adopted street numbering system and approved by Madison County is required prior to final plat approval. The plan must include: a route map showing the range of addresses for each street; where specific driveway locations are known, the distance from the intersection to the center of the driveway; and for corner lots, the non-arterial street to be used for driveway access.

10. Roadway design, material, and drainage standards

a. Subdivision roads shall meet one of two standards, either:

- (1) Those summarized in Table IV-1 and described below; or
- (2) those guidelines outlined in the current edition of the American Association of State Highway and Transportation Officials (AASHTO) published Policy on Geometric Design of Highways and Streets. Whenever AASHTO guidelines are used, a registered professional engineer shall provide written verification to Madison County that subdivision roads have been designed in accordance with AASHTO guidelines.

b. Emergency or secondary access

Emergency (or secondary) access roadways, if required, shall meet the standards summarized in Table IV-2. In some cases, only the emergency access easement will be required.

c. Higher standards

After reviewing a proposed subdivision design and location, the local fire district and fire prevention specialist may recommend higher standards for primary and/or emergency access roadways which will serve the proposed subdivision.

d. Roadway material

A subdivider may be able to use native material for roadway construction. Depending on the suitability of native materials, some crushed or screened gravel may be required by the County Road Supervisor as a top course.

e. Switchbacks

Switchbacks should be avoided wherever possible. If unavoidable, they should be designed to accommodate a fully loaded 40 foot emergency vehicle under all types of road conditions. Guardrails may be required to protect public safety.

f. Roadway drainage (See also Subsection IV-A.13. Grading and drainage)

(1) Roadway surface

The road surface shall be sloped with a crown of -2% to -6%, depending on the type of soil in the subgrade. Poorly drained subgrade soil (e.g., heavy clay) will require a steeper crown than if the subgrade material is well-drained sand and gravel.

(2) Drainage ditches

Drainage ditches along the sides of gravel roads may be required in order to convey runoff produced by the roadway. Where required, drainage ditches shall have a minimum grade of 0.4%, and may have grades up to 8.0% where lined with established grasses or rip rap, or where velocity control devices are provided.

(3) Culverts

Culverts are required where roads cross any ditch or watercourse. They are also needed at intersections with other roads and at designed intervals underneath elevated portions of roadways to prevent ponding. It is preferable to provide drainage at frequent intervals rather than concentrate water into one large conduit. Culverts shall have a minimum diameter of 18 inches, although a larger diameter may be required as deemed necessary by the County Road Supervisor to assure adequate runoff conveyance. A smaller culvert of no less than 15" may be installed if approved by the County Road Supervisor. Culverts should be of sufficient length to allow construction of a driving surface consistent with the width of adjacent sections of the roadway. Installation of the culverts should be in accordance with generally accepted standards, with attention given to the details of bedding, compaction, and erosion control.

(4) Effect on adjacent properties

Roadway drainage features shall not cause discharge which will in any way adversely affect neighboring properties.

(5) Snow area

In high-snow areas, snow removal and snow management shall be required as a part of road maintenance plans and parking areas.

g. Reclamation of disturbed areas

To protect the land from erosion and the spreading of noxious weeds, provide a plan for reclaiming disturbed areas for cut and fill slopes and borrow areas, which may include topsoil and mulching as necessary, and planted with appropriate ground cover during the earliest suitable season.

h. Safety considerations

The safety of a road is directly related to the standard of its design and the quality of workmanship in its construction. The following table presents a list of safety criteria which shall apply to new road construction.

Hazards	to be posted
Surface	must be compacted and stable
Minimum Vertical Clearance	15 feet
Minimum Visibility	240 feet
Width	must be consistent

i. Preservation of vegetation

Existing trees and other vegetation shall be preserved when possible. Plantings may be required for buffering, screening, or erosion control and are subject to approval by the governing body.

j. Signs and traffic control devices

Road signs and traffic control devices of the size, shape, and height approved by the governing body shall be placed at all intersections and other locations required by the governing body by the subdivider. Where roadwork is not scheduled for completion until after the final plat is filed, any required road signs and traffic control devices shall be included as part of the public improvements guarantee.

Traffic control devices shall be consistent with the "Manual on Uniform Traffic Control Devices," available from the Montana Department of Transportation. Other signs shall meet standards adopted by Madison County.

Street address signs on posts 6-8' high, reflective lettering of white on green for public access ways and white on blue for private access (unless otherwise approved), letters 4" high, visible in both directions.

k. Street lighting

Street lighting may be required by the governing body. Where roadwork is not scheduled for completion until after the final plat is filed, any required street lighting shall be included as part of the public improvements guarantee.

l. Paving

Paving and/or dust abatement may be required in high-traffic areas, or elsewhere if deemed necessary in order to control erosion and dust, facilitate snow removal, and preserve the natural environment.

11. Bridges

Bridges often serve as an integral part of any subdivision roadway system. Where required, they shall meet the following minimum standards:

Width	Same as roadway, driving surface width
(AASHTO) Design Load	In conformance with AASHTO LRFD Bridge Design, with current interims, HL-93 Live Load
Vertical Clearance (above decking)	15 feet

TABLE IV-1 Subdivision Road Standards

Terrain Classification Building Density	Level/Rolling		Mountainous	
	Low	High	Low	High
Minimum Driving Surface Width	20 ft.	24 ft.	22 ft.	26 ft.
Maximum Road Grade	8%		10%	
Design Speed	35 mph		35 mph	
Maximum Cul-de-Sac Length (without Emergency Access)	1000 ft.	750 ft.	1000 ft.	750 ft.
Minimum Cul-de-Sac Radius (see Note #4)	50 ft.		50 ft.	
Minimum Radius at Edge Intersection	25 ft.		15 ft.	
Minimum Right-of-Way Width	60 ft.		60 ft.	

NOTES:

1. Terrain classification terms.  
Level/Rolling terrain has slopes of 15% or less  
Mountainous terrain has slopes exceeding 15%
2. Building density terms.  
Low density = 5 or less dwelling units per road.  
High density = greater than five dwelling units per road.
3. Definitions of other terms can be found in Chapter 1.
4. Cul-de-sacs may have a landscaped center. Driving surface around the center must maintain the required minimum road width (20-26 feet) specified in TABLE IV-1.
5. Design of cut/fill slopes must take into account not only soil types, but also revegetation potential.
6. These are minimum subdivision road standards. For public health and safety reasons, a particular subdivision may be required to meet a higher standard. These standards may be modified if more stringent standards are subsequently adopted by Madison County.
7. A private driveway will serve no more than two dwellings and does not need to meet these road standards. However, terrain suitability for driveway access will be evaluated.

FIGURE IV-1 – Typical Section, Subdivision Road

Features: Level/Rolling Terrain  
High Building Density  
Unsuitable Native Material

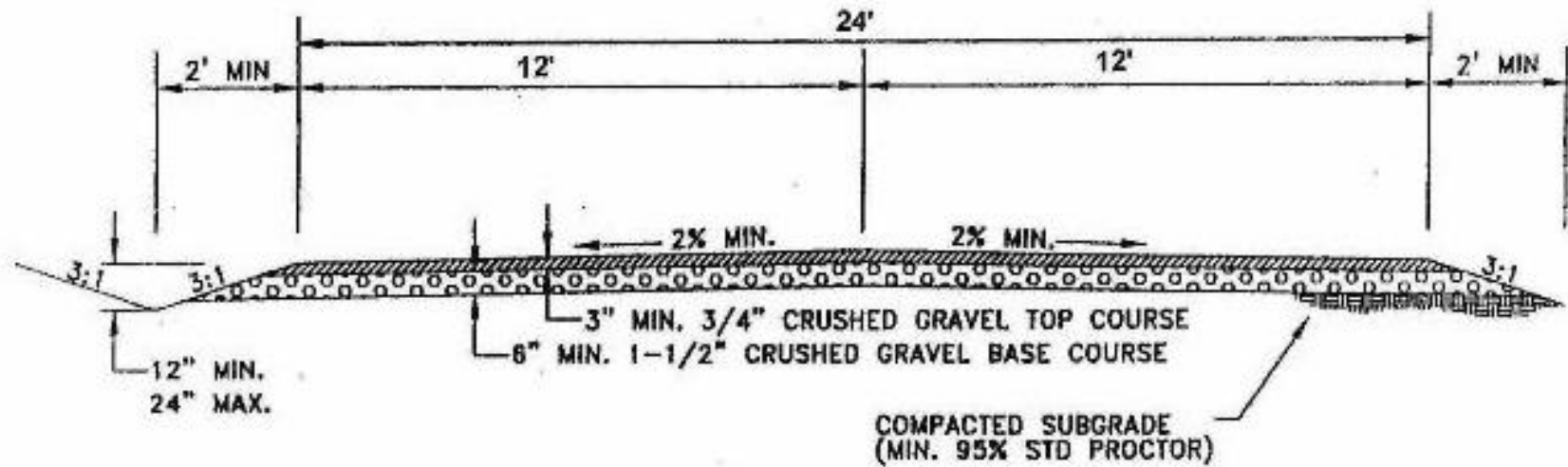


Table IV-2 – Emergency (Secondary) Access Road Standards

R/W or Easement Width	28 ft
Driving Surface Width	14 ft
Maximum Grade	10 %
Minimum Stopping Sight Distance	100 ft
Turning Radius	50 ft
Cul-de-sac Turnaround*	
a. Maximum Length	N/A
b. Inside Roadway Radius	N/A
* Normally required. However, in densely developed areas, dead-end emergency access routes may be allowed with the review and approval of the local fire district	

## 12. Easements

Where determined necessary in order to protect the public health, safety, and welfare, the governing body shall require that legal easements be provided for utilities, drainage, irrigation ditches (See Section IV-B.3., page 72), watercourses, vehicular or pedestrian access, emergency access, emergency service facilities (such as fire stations or hydrants), screen plantings, and wellhead protection areas (for community water wells). Any such existing easements shall be shown on the preliminary plat and summary or final plat. Where easements already exist, the subdivider shall notify the easement holder(s) of the proposed subdivision, prior to submitting the subdivision application.

### a. Utility easements

Utility easements shall meet the following standards:

- (1) Utility easements shall be centered along side and rear lot lines wherever possible. If placed in the roadway, they shall be located between the roadway and the right-of-way line.
- (2) Utility easements shall be twenty (20) feet wide, except the governing body may require easements for sanitary sewer, storm sewer, and water lines to be thirty (30) feet wide.
- (3) Where a utility easement is to be located in an existing, dedicated right-of-way, an encroachment permit must be obtained from the appropriate jurisdiction.

b. Drainage easements

Where a subdivision is traversed by a watercourse, drainage way, channel, ditch or canal, or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance and protection. Before any maintenance or improvements are performed on any water course, drainage way, channel, ditch, or canal, the owner of the waterway must give written permission for the work to be done. See Subsection IV-A.B.3., Irrigation ditches, for specific standards regarding irrigation ditch easements.

c. Access easements

Where legal access to a proposed subdivision will be by an easement across property not lying within the subdivision, the subdivider shall provide evidence that the necessary easement exists and encompasses the nature and intensity of the use which will result from development of the subdivision. Evidence of said easement shall be in the form of a certificate signed by a licensed title abstractor or title company.

13. Grading and drainage

- a. When required as per Subsection IV-A.2, Design by licensed professionals, grading and drainage plans pertaining to proposed roadway improvements and drainage facilities must be designed and certified by a registered professional engineer. They shall show the proposed grades of roads and proposed drainage facilities for all lots, blocks, and other areas. The plans shall display accurate dimensions, courses, and elevations.
- b. Where proposed subdivision lots are less than twenty (20) acres in size, the drainage system and facilities required for any surface runoff affecting the proposed subdivision or adjacent properties shall meet the minimum drainage standards of the Montana Department of Environmental Quality (Refer to APPENDIX 13). Where proposed subdivision lots are twenty (20) acres or larger in size, such drainage system and facilities shall have the approval of the county sanitarian (Refer to APPENDIX 14).
- c. Curbs and gutters or swales may be required by the governing body according to the character of the area, density of proposed development, and nature of adjoining properties.
- d. The subdivider shall provide suitable drainage facilities for any surface runoff affecting the proposed subdivision. Such facilities must be large enough to accommodate potential runoff from upstream drainage areas. The design of such facilities shall be based upon local soil factors,

topography, natural drainages, gullies and swales, aesthetics, and capacity for proper disposal of excess water.

- e. Unless an adequate storm sewer exists or is provided, all surface runoff in addition to that normally present before subdivision shall be retained on-site or released from the site in a manner which will not substantially increase the peak runoff normally present before subdivision. Drainage easements across undeveloped land to the nearest drainageway may be required.
- f. Drainage systems shall not discharge into any sanitary sewer facility.

#### 14. Emergency services

In accordance with the Madison County Growth Policy, approved subdivisions should be “reasonably accessible to emergency services.” The following standards provide a definition of “reasonably accessible to emergency services”. If a proposed subdivision does not meet all of these standards, then the subdivision cannot be approved unless the subdivider makes special provisions to upgrade emergency protection to meet the intention of the standards.

##### a. Agency review

The subdivider shall contact local emergency service providers (law enforcement, fire district, office of emergency management, quick response unit, and ambulance service) before completing the design of a proposed subdivision and submitting the subdivision application. If a proposed subdivision is not located in an existing fire district, then the subdivider shall ask the nearest fire district to review the subdivision plans.

As much as possible, the office of emergency management and local emergency service providers should work together to make consensus recommendations on proposed subdivisions. Their recommendations are not binding upon the governing body. Their recommendations become binding upon the subdivider only if included as conditions of subdivision approval by the governing body.

##### b. Emergency response time

The response time for a responsibly designed subdivision should be less than 15 minutes. If emergency response times are longer than 15 minutes, the proposed subdivision may be expected to incorporate mitigating measures to adequately protect public health and safety. In order to protect the public health, safety, and welfare, a proposed subdivision, unless mitigated, will not be approved if estimated emergency response times are greater than 45 minutes. Emergency response times

shall be estimated by emergency service providers, and shall take into account good weather, road conditions, actual equipment to be deployed, and availability of manpower.

c. Fire protection standards

All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. Standards shall include:

(1) Location within a fire district

If a proposed subdivision is not located in a fire district, one of the following standards must be met:

- (a) If contiguous to a fire district, annex to the district.
- (b) Contract for fire protection service.
- (c) Form a new fire district.
- (d) Form a fire service area.

(2) Adequate water supply

Where a community water system is proposed, the County may require the system to provide adequate and accessible water for fire protection.

- (a) For proposed subdivisions without access to public water supply systems, there should be a reliable, year-round water supply within one mile of the subdivision. The County may require the subdivider to provide a water source and/or install a dry hydrant. The water supply site must provide year-round access, as well as provisions for fire apparatus turnaround. Provisions for maintaining the water supply site must be in place.
- (b) If there is no nearby water source, the subdivider may be required to provide a reliable, year-round water supply by one of the following means: underground or frost proof tank or cistern, or pond, sized according to the recommendation of the local fire district and office of emergency management. Or, the subdivider may use other appropriate new technology as approved by the office of emergency management and local fire district.

- (c) Where a proposed subdivision will be served by an existing water supply site that was ordered installed by the County within the past ten years, the subdivider must pay proportionate reimbursement, through the county, to the original water supply site installer.

(3) Fire risk rating

In evaluating a proposed subdivision, the office of emergency management, in consultation with the local fire district, will calculate a fire risk rating. Fire risk ratings may take into account special mitigation measures built into the design of the proposed subdivision but not addressed in the standard rating system (e.g., fuel modifications, fire sprinklers).

Proposed subdivisions which are ranked in the *high* or *extreme* fire risk category should, wherever possible, be redesigned to reduce risk to the *low* level category. Inability to achieve a *moderate* fire risk rating is sufficient grounds for the County to deny a proposed subdivision.

(4) Additional standards in high fire hazard areas

High fire hazard areas include heads of draws, steep slopes, dense forest growth, or other hazardous wildfire components. If a proposed subdivision is located in a high fire hazard area, additional fire protection measures -- or a higher standard than what is outlined above -- may be recommended by the local fire district and office of emergency management.

- (a) Homes shall not be built on slopes greater than twenty-five (25) percent or at the apex of a fire chimney.
- (b) Subdivisions shall have two ingress-egress routes.
- (c) Other standards (e.g., defensible space, specified roofing materials, automatic fire sprinkler systems, fuel breaks, fire management activities, and other measures outlined in the Urban-Wildlands Interface Code), as deemed necessary by the local fire district and office of emergency management, may be required to protect lives, property, natural resources, and scenic beauty and to assist fire suppression agencies.

## 15. Utilities

All public and private utilities should be placed underground when undergrounding is technically feasible.

a. Underground utilities

Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the road has been brought to grade and before it is surfaced, to eliminate so far as practicable the necessity for disturbing such surfacing for the connection of individual services.

b. Overhead utilities

Overhead utility lines shall be located at the rear property line, where practical. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

16. Sanitation (water supply, wastewater treatment, stormwater management, and solid waste disposal)

All water supply systems, wastewater treatment systems, stormwater management, and solid waste disposal measures shall meet the requirements of Title 76, Chapter 4, MCA (Montana Sanitation in Subdivision Act), and the regulations of the Montana Department of Environmental Quality (DEQ) (ARM 17.36.101 - 17.36.805).

In accordance with 76-3-622, MCA, preliminary plat applications shall include the water and sanitation information outlined in APPENDIX 13 or APPENDIX 14, depending upon the size of the proposed subdivision parcels.

- a. Pursuant to Title 76, Chapter 4, MCA, DEQ shall provide water supply, water quality, and sanitation review for: proposed subdivision lots and remainders less than twenty (20) acres in size; subdivisions created by rent or lease or other conveyance; family conveyances; redesign of lot layouts; amended plats; and relocation of common boundaries requiring wells and/or wastewater treatment systems. In accordance with 76-3-604(7), MCA, proposed subdivisions reviewed by DEQ under this subsection must receive DEQ approval before the governing body can issue final plat approval.
- b. The Madison County sanitarian shall provide water supply, water quality, and sanitation review for proposed subdivision lots and remainders of twenty (20) or more acres in size. Proposed subdivisions reviewed by the sanitarian under this subsection must receive the sanitarian's approval before the governing body can issue final plat approval. In accordance with 76-3-604(7), MCA, subdividers must demonstrate to the sanitarian's satisfaction, that there is an adequate water source and at least one area

for a septic system and a replacement drainfield for each lot. A sanitation review fee will apply, as per fee schedule adopted under separate ordinance. In sensitive areas where water quantity and/or quality are a concern, the Madison County sanitarian and the governing body may require review and approval by the Montana DEQ.

- c. Where concerns regarding either water supply, water quality, or wastewater treatment are identified during the preliminary plat review process, the Madison County sanitarian may require, or the planning board may recommend, that the subdivision applicant be required to drill one or more test wells on the land proposed for subdivision, conduct one or more pump tests, perform groundwater monitoring, or provide any other pertinent information needed to properly evaluate the water supply, water quality, and sanitation characteristics of the site.

The planning board may, along with conditions of preliminary plat approval, issue a written statement of concerns to the governing body.

- d. In accordance with 76-3-604(6), MCA but also for first minor subdivision applications, the governing body shall collect public comment submitted regarding the information presented pursuant to 76-3-622, MCA and shall make any comments submitted or a summary of the comments submitted available to the subdivider within thirty (30) days after conditional approval or approval of the subdivision application and preliminary plat. The subdivider shall, as part of the application for sanitation approval, forward the comments or the summary provided by the governing body to the DEQ or County sanitarian, as appropriate.
- e. Where the subdivision is within the service area of a public water supply or wastewater treatment system, the subdivider shall submit facility connection plans and specifications to the appropriate utility district and to DEQ, and shall obtain approval from both entities prior to undertaking any construction to install such facilities.
- f. If a proposed subdivision is located within one mile of an existing community water supply or sewage treatment system and the proposed subdivision will neither connect to the existing community system nor provide its own community system, plat approval shall include a declaration that all present and future property owners waive their right to protest the future creation of a rural improvement district or special improvement district which would finance the connection of the subdivision to a community system. Said declaration shall appear on the face of the plat. The waiver is limited to 20 years from the date of filing the final plat.
- g. Solid waste sites/containers should be designed and located so as to be inaccessible to animals.

## 17. Parkland

For the purposes of this section, “cash donation” is the fair market value of the unsubdivided, unimproved land, and “dwelling unit” means a residential structure in which a person or persons reside.

Pursuant to 76-3-621, MCA, all proposed subdivisions shall meet the parkland requirements outlined below:

- a. Except as provided in Subsections IV-A.b., c., and f. below, a subdivider shall dedicate to the governing body a cash or land donation equal to:
  - (1) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
  - (2) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one (1) acre;
  - (3) 5% of the area of the land proposed to be subdivided into parcels larger than one (1) acre and not larger than three (3) acres; and
  - (4) 2.5% of the area of the land proposed to be subdivided into parcels larger than (three) 3 acres and not larger than five (5) acres.
- b. When a subdivision is totally within an area for which density requirements have been adopted pursuant to a growth policy under Title 76, Chapter 1, MCA or pursuant to zoning regulations under Title 76, chapter 2, MCA, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the growth policy or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection a. above and may not exceed 0.03 acres per dwelling unit.
- c. A park dedication may not be required for:
  - (1) except as provided in Subsection IV-A.17.h, a first minor subdivision from a tract of record as described in 76-3-609(2), MCA;
  - (2) land proposed for subdivision into parcels larger than five (5) acres;
  - (3) subdivision into parcels that are all nonresidential;
  - (4) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or

- (5) a subdivision in which only one additional parcel is created.
- d. The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, a cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not be required to exceed the proportional amount not covered by the land donation.
- e. (1) In accordance with the provisions of Subsections IV-A17.e.(2) and e.(3) below, and except for the allowance outlined in section IV-A.17.i. below, the governing body shall use the dedicated money or land for development, acquisition or maintenance of parks to serve the subdivision.
  - (2) The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas or for the purchase of public open space or conservation easements only if:
    - (a) the park, recreational area, open space, or conservation -easement is within a reasonably close proximity to the proposed subdivision; and
    - (b) the governing body has formally adopted a park plan that establishes the need and procedures for use of the money.
  - (3) The governing body may not use more than 50% of the dedicated money for park maintenance.
- f. The governing body shall waive the park dedication requirement if:
  - (1) (a) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and
  - (b) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection a. above;
  - (2) (a) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and

- (b) the area of land proposed to be subdivided, by virtue of providing long-term protection provided in Subsection IV-A.17.f.(2)(a) above, is reduced by an amount equal to or exceeding the area of the dedication required under subsection a. above; or
- (3) the area of the land proposed to be subdivided, by virtue of a combination of the provisions of Subsections IV-A.17.f.(1) and f.(2) above, is reduced by an amount equal to or exceeding the area or the dedication required under subsection a. above; or
- (4) (a) the subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and
  - (b) the area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under subsection IV-A.17.f.(1).
- g. The governing body may waive the park dedication requirement if:
  - (1) the subdivider provides land outside the subdivision that affords long-term protection of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and
  - (2) the area of the land to be subject to long-term protection, as provided in Subsection IV-A.17.g.(1) equals or exceeds the area of the dedication required under subsection IV-A.17.a.
- h. (1) The governing body may, at its discretion, require a park dedication for:
  - (a) a subsequent minor subdivision as described in 76-3-609(3) MCA; or
  - (b) a first minor subdivision from a tract of record as described in 76-3-609(2) MCA if:
    - i. the subdivision plat indicates development of condominiums or other multifamily housing;
    - ii. zoning regulations permit condominiums or other multifamily housing; or
    - iii. any of the lots are located within the boundaries of a municipality.

(2) A park dedication may be required under this section where the proposed lots are less than five (5) acres in size and the subdivision is:

(a) Adjacent to other tracts of five (5) acres or less; or

(b) Within one-quarter mile of a town boundary; or

(c) Adjacent to a state or federal highway.

i. Pursuant to 76-3-621(8), MCA, subject to the approval of the governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in this subsection to a school district, adequate to be used for school facilities or buildings.

j. Pursuant to 76-3-621(10), MCA, for the purposes of these parkland dedication requirements, a land donation may be inside or outside of the subdivision.

#### 18. Noxious weed control

Each approved subdivision must have a noxious weed management plan approved by the Madison County Weed Board (See APPENDIX 18, Noxious, Weed Management Plan Application Form).

#### 19. Right-to-Farm

Section 27-30-101, MCA affirms the following: “No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public or private nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.”

In the interests of supporting the viability of agriculture in Madison County and pursuant to 27-30-101, MCA, each subdivision application shall include a Right-to-Farm declaration, to include the notarized signatures of the landowner(s) (APPENDIX 22). Such declaration shall be filed along with the summary or final plat. Any covenants designed to provide further protections to agricultural operations in the general vicinity of the proposed subdivision shall be plat approval covenants, also filed with the summary or final plat.

## 20. Wildlife and wildlife habitat protection

Review of a proposed subdivision for the effects on wildlife and wildlife habitat shall include consideration of the following factors:

- a. The types of wildlife found, or likely to be found, in the habitat where the subdivision is proposed.
- b. Whether or not the proposed subdivision is located in or adjacent to big game winter range, an elk calving area, a wildlife migration route, or an area which supports a threatened or endangered species.
- c. Whether the proposed subdivision is designed to minimize its effects on wildlife and wildlife habitat.
- d. What cumulative effect the proposed subdivision may have on wildlife populations and wildlife habitat.

A more detailed analysis of the proposed subdivision's impact on wildlife and wildlife habitat may be required as part of the environmental assessment.

If County review determines that a proposed subdivision may negatively impact wildlife and wildlife habitat, a building setback, building envelope, or other special design/development standard may be required in order to mitigate project impacts.

If fencing is necessary, it shall be wildlife friendly fencing adhering to Montana Fish, Wildlife and Parks recommendations:

- A top wire or rail preferably no more than 40" above the ground and absolutely no more than 42";
- At least 12" between the top two wires;
- At least 18" between the bottom wire or rail and the ground;
- Smooth wire or rail for the top, smooth wire on bottom.
- No vertical stays
- Posts at 16.5-foot intervals
- Gates, drop-downs, or other passages where wildlife concentrate and cross.

## 21. Geological review

For sound regional and local land use planning and development, the complex geological framework of Madison County requires that County officials, developers, and the general public must have appropriate geoscience information. The most critical information, in general, is that which identifies areas of real or potential hazards, related to the geology, that could endanger the public or become matters of environmental or public health concern. A waiver of the geotechnical assessment may be requested of the Planning Board prior to preliminary plat application submittal.

To provide this information, and before approval of an overall development plan, the local governing body shall require a geological assessment of a property planned for subdivision, to identify areas, if any, that are not suitable for development. Such assessment shall be performed by a Licensed Professional Geologist, a Professional Geologist Certified by the American Institute of Professional Geologists, or by a Professional Engineer, licensed by the State of Montana, with a demonstrated proficiency in geological engineering and engineering geology. A written report signed and with an appropriate professional seal, shall be furnished to Madison County with the overall development plan. The report shall cover the entire property included in the overall development plan. The report shall describe geological conditions, with maps that clearly show areas of geology-related hazards, and shall discuss the risks associated with geology-related hazards in terms easily understood by non-geologists. If the report identifies geology-related concerns, the local governing body may require that site-specific geological and geotechnical investigations are needed before actual construction.

The report shall be made available to lot or unit purchasers, so that they clearly understand the potential risks involved, and the possible need for geotechnical advice before and during construction. A statement that the report is available shall appear on the face of any final plat covered by the overall development plan.

Approved overall development plans (ODPs) shall demonstrate that future developments will be concentrated in areas of low to moderate risk.

The steps outlined above may also be required of a proposed subdivision which is not covered by an ODP. The following procedures shall be used to determine the need for a geological assessment:

- (1) As a part of the pre-application process, the County planner will use the Geological Review Checklist (APPENDIX 8) while reviewing the Madison County Soil Survey and USGS/MT Bureau of Mines and Geology maps for physical characteristics that suggest limitations for construction. Planner will use this information to determine whether or not a geological

assessment is required as a part of the subdivision application. Planner may also use information gathered during an on-site inspection.

- (2) Where a geological assessment is not submitted with the subdivision application, the Planning Board may recommend, and the local governing body may require it as a condition of preliminary plat approval. This determination will be guided by information collected during the process of subdivision application review.

## 22. Other resource protection

In designing the development proposal, the subdivider shall consider the historic, cultural, and scenic resources of Madison County and attempt to minimize any negative impact of the proposed subdivision on such resources. In particular, the subdivider may be required to notify the Montana State Historical Society prior to submitting the subdivision application, in order to determine the potential for existing significant historic resources. If the Historical Society recommends a “walk-through” or inventory of historic resources on the land proposed for subdivision, such action shall be taken prior to submittal of the subdivision application and prior to any construction activity connected with the proposed subdivision.

If County review determines that a proposed subdivision may negatively impact the historic, cultural, and scenic resources of Madison County, a building setback, building envelope, or other special design/development standard may be required in order to mitigate project impacts.

## 23. Other mitigation

The County may require additional design and development standards beyond those listed in this Chapter, in order to mitigate the negative impacts of a proposed subdivision. For example, a clustered development design may be required in productive agricultural or environmentally sensitive areas and all outdoor lighting must be directed so as to avoid glare and excessive light spillage on adjacent properties.

# IV-B. SPECIFIC STANDARDS

1. Construction setbacks from water bodies  
(not including irrigation ditches, which are addressed in Subsection IV-B.3).
  - a. Purpose. The purpose of these construction setbacks is to:
    - (1) Protect the water quality, floodplain, and riparian resource of the rivers and other water bodies in Madison County;

- (2) Protect the visual resource enjoyed from these waterways; and
- (3) Provide for the health and safety of the residents of Madison County.

- b. Applicability. The construction setbacks pertain to all buildings.
- c. Setbacks. A river construction setback may be reduced if elevation changes between the water and the land to be developed are substantial, and as long as building envelopes are designated so that any building construction, including decks, does not hang out over the bank.
  - (1) The minimum construction setback from the Madison River shall be 500 feet from the ordinary high water mark.
  - (2) The minimum construction setback from the Big Hole River, the Jefferson River, the Ruby River, the Beaverhead River, and the South Boulder River shall be 150 feet from the ordinary high water mark, unless the floodplain development permit stipulates a greater construction setback or unless analysis of the subdivider's environmental assessment identifies a need for a greater construction setback. In such cases, the greater construction setback shall prevail.
  - (3) The minimum construction setback from other waterways shall be 100 feet from the bank.

## 2. Floodplain provisions

All subdivisions shall comply with the Madison County Floodplain Management Ordinance.

Where the Madison County floodplain administrator determines that a floodplain development permit application will be required, the subdivider shall submit such application prior to submitting the subdivision application. Permit approval must be obtained before a final plat can be approved (See APPENDIX 31 for Submittal Requirements for Floodplain Permit Application).

## 3. Irrigation ditches

- a. In accordance with 76-3-504(1)(k), MCA, the subdivider shall establish ditch easements in the subdivision, in locations of appropriate topographic characteristics and sufficient width, to allow the physical placement and unobstructed maintenance of open ditches or below-ground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots.

Establishment of such easements is not required if:

- (1) The average lot size is one (1) acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or
  - (2) The water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.
- b. In accordance with 76-3-504(1)(l), MCA, unless otherwise provided for under separate written agreement or filed easement, the subdivider shall file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights.
  - c. Whenever required by the governing body, irrigation ditch easements in subdivisions shall have a minimum width of thirty (30) feet on each side of the centerline.
    - (1) The subdivider must comply with this requirement even if a ditch easement of narrower width is already filed and recorded.
    - (2) Because of topographical constraints or other physical reasons, the governing body may require a ditch easement of greater than thirty (30) feet on each side of the centerline. Wider canals may also justify wider easement requirements.
4. Commercial and industrial subdivisions (also, multiple use subdivisions which include commercial and/or industrial lots)

Non-residential land uses differ in their positive and negative impacts upon a community. For this reason, commercial and industrial subdivisions and lots warrant somewhat different design and development standards as outlined below. These standards supplement those outlined previously in this chapter.

a. Transportation design

(1) Commercial

Roads and accessory parking areas serving a proposed commercial subdivision (or commercial lots within a subdivision) shall connect to arterials and shall not generate additional traffic on local roads. Intersections of driveways from parking areas with arterials or collectors shall be designed to cause the least possible interference with traffic movement. The governing body may require frontage or service roads to provide maximum safety and convenience.

(2) Industrial

Collector streets for industrial subdivisions (or industrial lots within a subdivision) shall be planned to serve industrial areas exclusively and shall connect to arterials or non-residential collectors. The intersections of frontage or service roads from parking areas with arterials or collector streets shall be at least 125 feet apart.

(3) Service access

Provisions shall be made for service access, such as off-street loading, unloading and parking. Such provisions shall be adequate to support the proposed use(s). Parking areas shall be located so as to preclude motorists from backing onto any public right-of-way.

b. Signage

Signage shall not project or extend into a public right-of-way or block sight visibility.

c. Lighting

(1) No lighting treatment shall, whether by brilliance or reflected light, be a detriment to surrounding properties or prevent the reasonable enjoyment of adjacent properties.

(2) Street lights shall be aimed downward.

(3) Where signs are illuminated, the illumination shall shine only on the sign or on the property on which the sign is located. Sign illumination shall not shine onto any other property in any direction, except by indirect reflection.

- (4) All outdoor lighting must be directed so as to avoid glare and excessive light spillage on adjacent properties.

- d. Landscaping

- (1) Perimeter

- Plantings of trees and shrubs should be installed along the perimeter to provide a buffer between the proposed subdivision and adjacent land uses. The Natural Resources Conservation Service, local conservation district, and County extension office may be consulted for advice on appropriate species.

- (2) Storage, solid waste disposal

- Storage or refuse areas or facilities should be screened from view of any residential area or public roadway.

- (3) Maintenance of any landscaping treatments should be addressed as a property owners association covenant.

- e. Fire protection

- Any commercial and industrial standards contained in the Uniform Fire Code, as adopted by the State of Montana, shall apply.

- 5. Employee housing (See Section I-K for definition)

- Large-scale subdivisions often create a need for employee housing. Subdividers who propose a major residential, commercial, industrial, or mixed use project that will require an ongoing workforce to serve the subdivision shall make adequate provisions for employee housing, whether on-site or off-site. The amount of employee housing required will depend upon not only the size and scope of the proposed subdivision, but also the local housing supply, local housing affordability, and local economic conditions.

- Employee housing should be located on land well-suited for development and accessible to public services. It should be well-designed and, as reasonably possible, structured to offer a variety of housing opportunities (e.g., both rental and ownership options). Employee housing sites shall be designed to avoid a concentration of low-income housing.

- 6. Mobile Home and Recreational Vehicle Parks, Condominiums, Townhomes and Townhouses

- a. Additional state regulations

- (1) Mobile home and recreational vehicle parks are required to be licensed by the Montana Department of Environmental Quality under the provisions of Title 50, Chapter 52, MCA.
- (2) Condominium developments must comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA.

b. Special provision

The governing body may require provision for:

- (1) Storage facilities on the lot or in compounds located within a reasonable distance;
- (2) A central area for storage or parking of boats, trailers, or other recreational vehicles;
- (3) Landscaping or fencing to serve as a buffer between the development and adjoining properties;
- (4) An off-street area for mail delivery; and
- (5) Street lighting.

c. Mobile/Manufactured Home Park Standards

Mobile home parks are residential developments containing mobile homes, as defined in Section I-K. Mobile home parks do not pertain to residential developments using modular or factory-built buildings, as defined in Section I-K.

(1) Mobile/Manufactured Home Spaces

- (a) Mobile/manufactured home spaces must be arranged to permit the safe and practical placement and removal of mobile homes.
- (b) All mobile/manufactured homes must be located at least 25 feet from any property boundary line abutting upon a public street or highway right-of-way and at least 15 feet from other boundary lines of the park.
- (c) The mobile/manufactured home pad must be located at least 10 feet from the street that serves it.
- (d) The size of the mobile/manufactured home pad must be suitable for the general market to be served and must fit the dimensions of mobile/manufactured homes anticipated.

- (e) A mobile/manufactured home pad may not occupy more than one-third ( $1/3$ ) of the area of its space. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds ( $2/3$ ) of the area of a space.
- (f) The governing body may require that the mobile/manufactured home pad be improved to provide adequate support for the placement and tie-down of the mobile home.
- (g) No mobile/manufactured home or its attached structures, such as awnings and carports, may be located within 20 feet of any other mobile home or its attached structures.
- (h) No detached structure, such as a storage shed, may be located within five feet of any mobile/manufactured home or its attached structures.
- (i) A minimum of two off-street parking spaces must be provided on or adjacent to each mobile/manufactured home space. The driveway must be located to allow for convenient access to the mobile/manufactured home, and be a minimum of 10 feet wide.
- (j) One guest parking space must be provided for each 10 mobile/manufactured home spaces. Group parking may be provided.
- (k) The limits of each mobile/manufactured home space must be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of space limits on the ground must be approximately the same as those shown on the approved plans. Precise engineering of space limits is not required either on the plans or on the ground.
- (l) Each mobile/manufactured home must be skirted within 30 days after it is moved to a space within the mobile/manufactured home park. The skirting must be of a fire-resistant material similar to that of the mobile/manufactured home exterior.

## (2) Streets

- (a) Streets within a mobile/manufactured home park must meet the standards specified in Section IV.9. Streets must be designed to allow safe placement and removal of mobile homes.
- (b) Streets must be designed to provide safe access to public roads.

- (c) Roads within the mobile/manufactured home park must be designed to provide safe traffic circulation and parking.
- (d) One-way roads must be at least 15 feet wide; two-way roads must be at least 24 feet wide.

### (3) Electrical Systems

Electrical systems must be designed and installed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installations must be designed and constructed in accordance with the applicable state electrical standards.

### (4) Gas Systems

- (a) Gas equipment and installations must be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation must be designed and constructed in accordance with the applicable provisions of the "National Fuel Gas Code" (NFPA Pamphlet 54-1981) and the "Standard for the Storage and Handling of Liquefied Petroleum Gases" (NFPA Pamphlet 58-1981).
- (b) A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system must be installed near to the point of connection of the liquefied petroleum gas container.
- (c) Each mobile/manufactured home lot must have an accessible, listed gas shutoff installed. This valve must not be located under a mobile home. Whenever the mobile home lot gas outlet is not in use, the shutoff valve must be plugged to prevent accidental discharge.

## d. Recreational Vehicle Park Standards

### (1) Recreational Vehicle Spaces

- (a) Spaces in recreational vehicle parks must be arranged to allow for the safe movement of traffic and access to spaces.
- (b) Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking.

(c) Recreational vehicles must be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.

(d) No recreational vehicle space may be located less than 25 feet from any public street or highway right-of-way.

(2) Density

The density of a recreational vehicle park must not exceed 25 recreational vehicle spaces per acre of gross site area.

e. Condominiums (and townhouses)

(1) Rather than completing all required road and other improvements prior to obtaining final approval from the governing body, the subdivider may enter into a subdivision improvements agreement (sample provided in APPENDIX 21).

(2) Development design

The proposed subdivision may be required to:

(a) Provide an on-site open area for storage or parking of boats, trailers, other recreational vehicles belonging to residents.

(b) Landscape and/or fence any on-site storage areas.

(c) Landscape and/or fence along the property boundary line in order to provide separation between adjoining land uses.

(d) Provide an area for visitor parking.

7. Planned unit developments (PUD)

The subdivider may choose to submit a proposed subdivision application as a PUD.

a. Purpose

The purpose of this subsection is to allow flexibility in design and development standards, in cases where the subdivider proposes a creative concept which clusters development to promote the efficient provision of services and the preservation and enhancement of open space and other natural or cultural features. The PUD concept supports the planned development of an individual tract for either a single land use

such as residential, or for a harmonious combination of land uses, such as a mixture of residential and commercial.

b. Special requirements

In addition to the standard application package requirements discussed in Chapter II of these regulations, a PUD subdivision application must demonstrate a clustered development design and include the following information in narrative form:

- (1) A description of proposed open space and recreational facilities, roads and any other public improvements;
- (2) A description of plans for the long-term management of open space, whether commonly owned or not;
- (3) A description of plans for the long-term management of common facilities or property;
- (4) A schedule for installing proposed road and utility improvements;
- (5) A description of any proposed modifications from the design and development standards outlined in this Chapter; and
- (6) A statement of how the proposed PUD would accomplish any or all of the following purposes:
  - (a) Preserve to the maximum extent possible, the natural characteristics of the land including topography, vegetation, streams, and other bodies of water.
  - (b) Provide economies in the provision of roads and other public improvements.
  - (c) Preserve productive agricultural lands, wildlife habitat, or other significant open space.
  - (d) Protect important historic sites or structures.
  - (e) Provide development facilities for recreational purposes.

A PUD project must advance three or more of the five purposes outlined in (6)(a)-(e) above.

A PUD does not have to adhere to all of the design and development standards outlined in earlier subsections of this chapter. The planning board shall consider any request for modified standards as a part of its

overall review of the proposed PUD. Such request for modifications shall not be treated as a variance request, as described in Section V-B, of these regulations.

# **Chapter V                      ADMINISTRATIVE PROVISIONS**

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## **V-A. SCHEDULE OF FEES**

Pursuant to 76-3-602, MCA, the governing body may establish reasonable fees to be paid by the subdivider to defray the expense of reviewing subdivision plats. Refer to APPENDIX 4 for the fees in effect at the time these regulations were adopted.

## **V-B. VARIANCES**

### **1. Application Requirements**

Where a variance from one or more of the design and development standards outlined in Chapter IV of these regulations is sought as a part of the subdivision application, the subdivider shall submit a variance application form (APPENDIX 30.) and appropriate variance review fee, along with the subdivision application package.

If a subdivider seeks more than one variance, the subdivision application package shall contain a separate variance application form and fee for each variance request.

### **2. Special Application Requirements**

In addition to the variance application requirements outlined in Subsection V-B.1., requests for a variance from any of the construction setbacks outlined in Chapter IV-B.1. of these regulations must be accompanied by information and/or proposed building design restrictions demonstrating that the water quality, floodplain, riparian area, and visual resources will be adequately protected.

### **3. Application Review and Decision (Process is outlined in accordance with 76-3-506, MCA)**

#### **a. Public notification and review.**

The variance request shall be noted in all written public notifications issued by the County and the subdivider regarding the proposed subdivision.

#### **b. Public hearing requirement.**

The variance request shall be considered by the planning board at a properly noticed public hearing. Pursuant to 76-3-506(1) and (3) MCA,

variances for first minor subdivisions are exempt from the public hearing requirement.

c. Planning board review and recommendation.

The planning board shall consider the variance request and make a written recommendation to the governing body, as to whether the variance request should be approved or denied. The planning board's recommendation shall contain findings of fact which address the criteria outlined in Subsection V-B.4. below.

d. Governing body review and action.

The governing body shall consider the variance request, the planning board's recommendation, and all other pertinent information at its public meeting to review the proposed subdivision. The governing body may approve or deny the variance. In granting a variance, the governing body may impose such conditions as will, in its judgment, secure substantially the objectives of these regulations. Whenever a variance request is granted, the governing body's motion of subdivision approval shall contain a statement describing the variance and the findings of facts and conditions supporting its approval.

#### 4. Review Criteria

Pursuant to 76-3-506, MCA, the governing body may grant a variance from the design and development standards of these regulations when strict compliance will result in undue hardship on the subdivider and when it is not essential to the public welfare.

A variance approval shall not have the effect of nullifying the intent and purpose of these regulations.

The governing body shall approve a variance request only if it finds that, based on the evidence of the specific case:

- a. The variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties;
- b. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced.
- c. The variance will not cause a substantial increase in public costs; and
- d. The variance will not in any manner place the proposed subdivision in non-conformance with any adopted zoning regulations. The variance

should not place the proposed subdivision in substantial non-compliance with the Madison County Growth Policy.

The governing body may not grant a variance which will allow building in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.

Notwithstanding V-B.4.b. above, an innovative development proposal which does not circumvent the purpose of these regulations may be reason for a variance approval.

#### 5. Variance Requests after Preliminary Plat Approval

A subdivider who has received preliminary plat approval may request a variance from one or more of the design and development standards outlined in Chapter IV of these regulations. Where such a variance is sought, the subdivider shall submit a variance application form (APPENDIX 30) and appropriate variance review fee at least 30 days prior to the date of the planning board's public hearing on the variance request. The variance request must be reviewed by the planning board at least by its second regularly scheduled meeting from when the request was received.

At least 30 days prior to the planning board public hearing, the subdivider is required to: (a) notify each adjoining property owner and any existing property owners association potentially affected by the project as determined by the planner, by certified and return receipt mail; and (b) post a notice of the variance request at one or more conspicuous places on the boundaries of the property.

Review of this type of variance request shall follow the same process as outlined above. The planner shall notify the subdivider, each adjoining property owner, and any existing property owners association potentially affected by the project as determined by the planner, of the public hearing before the planning board, by certified and return receipt mail not less than 15 days prior to the date of the hearing.

### **V-C. AMENDMENT OF REGULATIONS**

Before the governing body amends these regulations, it may seek the planning board's recommendation and it shall hold a public hearing. The governing body shall give public notice of its intent to amend these regulations and of the public hearing by publication of notice of the time and place of the hearing in a newspaper of general circulation in the County not less than fifteen (15) or more than thirty (30) days prior to the date of the hearing.

## **V-D. TRANSFER OF TITLE**

### **1. Preliminary and final plats**

Pursuant to 76-3-301(1), MCA and except as noted below, every final subdivision plat must be filed for record with the Madison County clerk and recorder before title to the subdivided land can be sold or transferred in any manner. The clerk and recorder shall refuse to accept any plat for record that fails to have the governing body's approval in proper form.

Pursuant to 76-3-303, MCA, after the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

- a. That under the terms of the contracts, the purchasers of lots in the proposed subdivision make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana;
  - b. That under the terms of the contracts and the escrow agreement, the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the clerk and recorder;
  - c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the clerk and recorder within two (2) years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
  - d. That the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and
  - e. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner."
2. In accordance with 47 Op. Att'y Gen. No. 10 (1997), the clerk and recorder may refuse for recording a United States government lot or an aliquot part of a government survey section less than 160 acres or less than one-quarter section aliquot part, unless it is described as an individual parcel of land in a prior deed or unless it is being segregated and conveyed in compliance with the Montana Subdivision and Platting Act.

## **V-E. ENFORCEMENT**

### **1. Unlawful transfers or conveyances**

If transfers or conveyances not in accordance with Section V-D. above are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. The cost of such action shall be imposed against the party not prevailing.

### **2. Violations or Appeals**

- a. Pursuant to 76-3-105, MCA, any person who violates any provision of the Montana Subdivision and Platting Act or these regulations shall be guilty of a misdemeanor and punishable by a fine of not less than \$100.00 or more than \$500.00 or by imprisonment in a county jail for not more than three (3) months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of the Act or these regulations shall be deemed a separate and distinct offense.

- b. Actions against the governing body, pursuant to 76-3-625, MCA.

- (1) A person who has filed with the governing body an application for a subdivision under the Montana Subdivision and Platting Act may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to the Act that is arbitrary or capricious.

- (2) A party identified in subsection V-E.2.b.(3) below who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days of the date of the written decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

- (3) The following parties may appeal under the provisions of subsection V-E.2.b.(2) above:

- (a) The subdivider;

- (b) A landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner

can show a likelihood of material injury to the landowner's property or its value;

(c) a nearby municipality, as described in 7-1-4111, MCA.

(d) For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

## **V-F. VACATION OF RECORDED PLATS**

Pursuant to 76-3-305, MCA, any recorded plat may be vacated either in whole or in part, as provided by 7-5-2501, 7-5-2502, 7-14-2616(1) and (2), 7-14-2617, 7-14-4114(1) and (2), and 7-14-4115, MCA. Upon vacation, the governing body or the district court, as provided in 7-5-2502, MCA, shall determine to which properties the title to the streets and alleys of the vacated portions must revert. The governing body or the district court, as provided in 7-5-2502, MCA, shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

However, when any poleline, pipeline, or any other public or private facility is located in a vacated street or alley at the time of the reversion of the title to the vacated street or alley, the owner of the public or private utility facility has an easement over the vacated land to continue the operation and maintenance of the public utility facility.

## **V-G. CORRECTION OF RECORDED PLAT**

### **1. By governing body**

Pursuant to 76-3-614, MCA, when a recorded plat does not definitely show the location or size of lots or blocks or the location or width of any street or alley, the governing body may at its own expense cause a new and correct survey and plat to be made and recorded in the office of the Madison County clerk and recorder. The corrected plat must, to the extent possible, follow the plan of the original survey and plat. The surveyor making the resurvey shall endorse the corrected plat referring to the original plat and noting the defect existing therein and the corrections made.

## 2. By landowner

A landowner or landowner's representative may submit a corrected final plat to the governing body for review and approval. Eligible correction(s) are only those drafting or surveying errors that, in the judgment of the governing body, do not materially alter the plat. The plat shall be entitled, "Corrected Plat of the (name of subdivision) Subdivision". The surveyor issuing the corrected plat shall endorse its face, refer to the original plat, note the defect existing therein, and explain the correction(s) made on the face of the new plat.

## 3. Filing of corrected plats

Once the governing body has reviewed and approved a corrected plat, it may be filed with the Madison County clerk and recorder.

# V-H. AMENDMENT OF RECORDED PLAT

## 1. Exemption from Amended Plat Review

Pursuant to 76-3-207(1)(d) and (e), MCA, the following plat amendments are exempt from review as a subdivision:

- a. For five (5) or fewer lots, the relocation of common boundaries;
- b. For five (5) or fewer lots, the aggregation of lots; and
- c. Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

## 2. Amended Plat Review

The governing body shall review and approve all other amended plats, pursuant to 76-3-207(2), MCA, as follows:

- a. A proposal that increases the number of lots, or redesigns or rearranges (six) 6 or more lots within a platted subdivision, where such change would result in a higher development density, shall undergo subdivision review in accordance with Chapter II of these regulations and the subdivision review fee schedule outlined in APPENDIX 4;
- b. A proposal for other types of changes to a filed final plat or plan [e.g., increased number of lots or redesign or rearrangement of six (6) or more lots but no increase in development density, or changes to land uses, building setback requirements or road and utility easements] will be

reviewed by the governing body, which has the discretion to determine whether the proposed changes constitute a material alteration to the original plat or plan. If the changes constitute a material alteration, the governing body may require the amended plat request to undergo subdivision review in accordance with Chapter II of these regulations and the subdivision fee schedule outlined in APPENDIX 4. If the changes do not constitute a material alteration, an amended plat review fee shall apply.

3. All amended plats must be filed with the clerk and recorder.

## Chapter VI

## SUBDIVISION EXEMPTIONS

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Divisions of land meeting one or more of the descriptions listed in this Chapter are not subject to subdivision review as described in Chapter II of these regulations, but they may be subject to some procedural requirements. In accordance with 76-3-504(1)(p), MCA, the governing body has established criteria to determine whether a proposed exemption is an attempt to evade the subdivision review process.

### VI-A. PURPOSE

Montana state statutes provide that certain divisions of land which would otherwise constitute subdivisions are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the subdivision review process as outlined in the Montana Subdivision and Platting Act (76-3-101 et seq., MCA).

1. The exemptions from subdivision review under Sections 76-3-201 through 76-3-207, M.C.A., are intended to relieve a landowner from the requirements of local review when the division of land either creates no additional building sites (agricultural exemption or boundary line adjustment) or creates so few building sites that only minimal impact will likely result. The purpose of the exemptions is not to provide a means of creating numerous building sites without subdivision review, but rather to deal with the exceptional circumstances when plenary subdivision review is unnecessary;
2. The proper use of an exemption will not compromise or conflict with the purpose of the Subdivision and Platting act which is to:
  - a. Promote the public health, safety, and general welfare by regulating the subdivision of land;
  - b. Prevent overcrowding of land;
  - c. Lessen congestion on the streets and highways;
  - d. Provide for adequate light, air, water supply, sewage disposal, park and recreational areas, ingress and egress, and other public requirements;
  - e. Require development in harmony with the natural environment;
  - f. Promote preservation of open space;
  - g. Promote cluster development approaches which minimize costs to local citizens;

- h. Promote effective and efficient provision of public services;
  - i. Protect the rights of property owners.
3. The likelihood that land development problems will occur greatly increases when building sites are created without public review and are further divided without review;
  4. The Commission has the authority and duty to evaluate and determine from all the circumstances whether the proposed division of land is based on a purpose to evade subdivision review requirements.

The purpose of this Chapter is to outline (1) the types of allowable exemptions, (2) the exemption request and review procedures used by Madison County for certain exemptions, and (3) the evasion criteria used by Madison County to determine whether or not the proposed use of certain exemptions would evade the Act.

## **VI-B. TYPES OF EXEMPTIONS**

APPENDIX 25 summarizes the divisions of land which, under 76-3-101 et seq., MCA and 76-4-101 et. seq., MCA, are exempt from subdivision review, survey requirements, and/or sanitation review.

1. Subdivision Exemptions Within Platted Subdivisions -- Subject to Survey Requirements
  - a. For five (5) or fewer lots, the relocation of common boundaries (commonly called boundary adjustment).
  - b. For five (5) or fewer lots, the aggregation of lots.
  - c. The relocation of a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.
  - d. Condominiums constructed on land divided in compliance with 76-3-101 et seq., MCA.
2. Subdivision Exemptions Outside of Platted Subdivisions -- Subject to Survey Requirements
  - a. The relocation of common boundaries between adjoining properties (commonly called boundary adjustment).

- b. A single gift or sale to each member of the landowner's immediate family (commonly called family conveyance).
  - c. Land divisions made by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner, that the divided land will be used exclusively for agricultural purposes (commonly called agricultural exemption). A change in the use of the land exempted for agricultural purposes to any other use requires review as a subdivision.
3. Subdivision Exemptions Within and Outside of Platted Subdivisions -- Not Subject to Survey Requirements

Any division of land that:

- a. Is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, chapter 30.

Pursuant to 76-3-201(2), MCA, before a court of record orders this type of division of land, the court shall notify the governing body of pending division and allow that governing body to present written comment on the division. In preparing its written response on the division, the governing body shall consider:

- (1) Provision of legal and physical access to the land in question;
- (2) Provision of utility easements, including irrigation ditch easements;
- (3) The public interest criteria outlined in 76-3-608(3)(a), MCA;
- (4) The three additional public interest criteria outlined in Chapter II, Section E.2.c. of these regulations; and
- (5) Whether or not the division would be in substantial compliance with the Growth Policy.
- (6) Whether or not the division is legally described and recordable, upon consultation with the Madison County clerk and recorder.

The governing body shall also suggest to the court, that it require the landowner to have the land surveyed and then file a certificate of survey, including a legal description and cause number of the court order.

- b. Is created to provide security for construction mortgages, liens, or trust indentures (commonly called mortgage exemption) for the purpose of construction, improvements to the land being divided, or refinancing purposes.
- c. Creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property.
- d. Creates cemetery lots.
- e. Is created by the reservation of a life estate.
- f. Is created by lease or rental for farming and agricultural purposes.
- g. Is in a location over which the state does not have jurisdiction.
- h. Is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to local subdivision review.
- i. A division of state-owned land, unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.
- j. A division of land created by lease or rental of contiguous airport-related land owned by a city, a county, the state or a municipal or regional airport authority if it is to be used for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air-carrier-related activities.
- k. Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209, MCA. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording [Note: County road easements and rivers may not automatically create property boundaries].
- l. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, situated on one or more parcels of land.
- m. Deeds, contracts, leases, or other conveyances executed prior to July 1, 1974.

## **VI-C. EXEMPTION REQUEST AND REVIEW PROCEDURES**

These procedures are pertinent to the exemptions listed in Subsections VI-B.1a-c, VI-B.2a-c, and VI-b.3.

### **1. Request for Exemption**

Any landowner seeking an exemption from the requirements of the Montana Subdivision and Platting Act, as set forth in Sections 76-3-201(1)(b), MCA and 76-3-207(1)(a), (b), (c), (d), (e), and (f), MCA, shall submit to the Madison County clerk and recorder three (3) sets of the following items:

- a. As required, a certificate of survey in either draft or final form.
- b. A completed Request for Exemption Review (APPENDIX 26), including the signatures of all landowners.
- c. Supporting documents or evidence of entitlement to the claimed exemption.

In addition, pursuant to 76-3-201(4), MCA, the landowner shall pay the subdivision exemption review fee.

### **2. Exemption Request Review by Exemption review board**

The clerk and recorder shall distribute the exemption request materials to the exemption review board (See Section I-K for definition). The landowner requesting the exemption shall be notified by the clerk and recorder in advance of the exemption review board meeting. In accordance with the Montana open meeting law, exemption review board meetings shall be properly noticed. The exemption review board shall meet to review the proposed exemption.

At the meeting, the exemption review board will consider whether or not the proposed exemption is exempt from the Montana Subdivision and Platting Act (76-3-101 et seq., MCA) and the Sanitation in Subdivision Act (76-4-101 et seq., MCA), as well as the criteria listed in Section VI-D. (See also APPENDIX 27) for exemption review checklist). All three members of the exemption review board must participate in the review. Each exemption review board member may have a designated alternate to serve in his or her absence.

Within fifteen (15) working days of the clerk and recorder's receipt of three complete sets of the exemption request materials and the review fee, the exemption review board shall review the exemption request.

If the board finds that the proposed exemption meets the statutes and the criteria stated herein, it shall approve, with or without conditions, the exemption request. If the board finds that the proposed exemption does not meet the

statutes and the criteria stated herein, it shall deny the exemption request. The clerk and recorder shall notify the landowner or landowner's representative in writing of the board's decision within five (5) working days of the decision.

The board shall approve or disapprove the exemption request within twenty (20) working days of the clerk and recorder's receipt of the complete submittal.

Action on an exemption request may be deferred once if the exemption review board determines it contains inaccurate or incomplete information. In such a case, the "clock" starts over once the clerk and recorder receives the revised material. If the board determines the request contains inaccurate or incomplete information on the revised submittal, the request will be denied and a new application with review fee will be required.

### 3. Certification of Exemption

Where required, a certificate of survey pertaining to any division of land which is created according to one of the subdivision exemptions listed above may not be filed by the clerk and recorder unless it bears the acknowledged certificate of property owners stating that the division of land in question is exempted from review as a subdivision and citing the applicable exemption [24.183.1104.(1)(f), ARM].

### 4. Appeal

A landowner whose exemption request has been denied may submit a written appeal of the decision to the governing body within twenty (20) working days of the exemption review board's decision. The appeal must be accompanied by an explanation of why the proposed exemption should be approved. The governing body will notify the landowner of the meeting time, date and place when the appeal will be considered. The governing body may reverse, with or without conditions, the decision of the exemption review board. The landowner will be notified in writing of the governing body's decision and the reasons for the decision. A copy of the decision will be sent to each member of the exemption review board.

### 5. To assist in the monitoring and enforcement of the criteria listed in Section VI-D., the clerk and recorder shall incorporate the following abbreviations into the certificate of survey filing system.

ME	Mortgage Exemption [76-3-201(1)(b), MCA]
BA	Boundary Adjustment [76-3-207(1)(a), (1)(d) and (1)(f), MCA]
FC	Family Conveyance [76-3-207(1)(b), MCA]
AE	Agricultural Exemption [76-3-207(1)(c), MCA]

## **VI-D. EXEMPTION REVIEW CRITERIA**

### **1. General Criteria**

In its review of an exemption request, the exemption review board shall consider all of the surrounding circumstances. These circumstances may include, but are not limited to: (a) the prior history of the tract in question; (b) whether the claimant has engaged in prior exempt transactions involving the tract; (c) the configuration of the tracts if the proposed exempt transaction is completed; and (d) any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

#### **Pattern of development**

The scope of review of a pattern of development shall apply to the creation of a division of land or multiple divisions of land by use of or proposed use of an exemption(s):

- a. **Original Tract Less Than 20 Acres:** A pattern of development may occur whenever more than three parcels (i.e., two exempt parcels and a remaining parcel) have been divided from the original tract of less than 20 acres regardless of ownership by use of exemptions of the Act;
- b. **Original Tract 20 Acres Or More:** A pattern of development may occur whenever more than four parcels under 20 acres (i.e., three exempt parcels and a remaining parcel) have been divided from the original tract of 20 acres or more, regardless of ownership, by use of exemptions of the Act.

A pattern of development may be evidenced by the use of exemption(s) contiguous to platted lots where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.

### **2. Specific Criteria**

#### **a. Use for Family Conveyance**

- (1) **Statement of Intent.** The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family (See Section I-K for definition) without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property. Family members will not sell the transferred parcels for one hundred eighty (180) days after the transfer unless such parcels are subject to an involuntary transfer such as by foreclosure, death, judicial sale, condemnation, or bankruptcy.

- (2) A proposed division of land as a family transfer may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:
- (a) The proposed new parcel would result in a pattern of development.
  - (b) The division is made for the purpose of speculation by the grantor or for resale for the benefit of the grantor by using the grantee as a “straw person.”
  - (c) A transfer of a parcel of land by one family member to another, by quitclaim deed, followed by an attempted use of this exemption.
  - (d) The transfer is the second or subsequent family transfer of property owned by the grantor to the same member of the immediate family.
  - (e) The name of the grantee and relationship to the grantor do not appear on the face of the proposed Certificate of Survey.
  - (f) The grantee is also one of the grantors.
  - (g) The grantee is a minor child and the trustee is the grantor.
  - (h) The property is a parcel created through the family conveyance exemption which was transferred within three (3) years of the parcel’s creation.
  - (i) The affidavit of intent is incomplete or missing.
  - (j) The tract proposed for division was previously created through the use of an exemption.
  - (k) The proposed use of the family conveyance exemption would create more than one remainder parcel of less than 160 acres.
  - (l) The exempted parcel is being divided from a tract that was previously created through the use of an exemption, including remaining tracts of less than 160 acres.
  - (m) There must be no evidence at the time of review, indicating that the proposed new tract is intended to be sold.
  - (n) This exemption may not be used as an alternative to a proposed subdivision for which an application has been submitted.

(o) In accordance with 76-3-207(1)(b), MCA, the land proposed for a family conveyance exemption shall not be located within a subdivision platted since July 1, 1973.

(3) The deed transferring the land shall accompany the COS at the time of recording.

b. Use for Agriculture (Agricultural Exemption)

(1) Statement of Intent

The intention of this exemption is to allow a landowner to create a parcel without local subdivision and sanitation review, where the land will be gifted, sold, or there is an agreement to buy and sell the divided land, which will be used only for the raising of crops or livestock or for the preservation of open space, and where no residential, commercial or industrial buildings will be built.

(2) Permitted buildings

Agricultural sheds, outbuildings, and wells for stock watering are permitted, provided no sanitary facilities are required. Facilities for the commercial processing of agricultural products are prohibited.

(3) Required covenant

The parties to the transaction must enter into a covenant (See APPENDIX 28 for a sample covenant) running with the land and revocable only by mutual consent of the governing body and the landowner, that the divided land will be used exclusively for agricultural purposes or open space. The covenant must be signed by both the property owner and the buyer or lessee in the presence of a notary public.

(4) The application must be accompanied by draft deeds showing the name of the person(s) to whom the property is to be transferred and the proposed covenant to run with the land.

(5) A proposed division of land as an agricultural exemption may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:

(a) Documentation of the intent to gift, sell, or an agreement to buy or sell the divided land is not included as supporting documentation with the application.

- (b) The proposed covenant to run with the land is not included as supporting documentation with the application.
  - (c) The landowner has not demonstrated that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings have been or will be built on it.
  - (d) The parcel does not meet the criteria for an agricultural exemption under 15-7-202, MCA.
- (6) Any change in use of the land for other than agricultural purposes subjects the division to review as a subdivision.
- (7) Revocation of the agricultural exemption shall come only as a part of the governing body's approval of the division of land as a subdivision (See APPENDIX 29 for Request Form to Lift an Agricultural Exemption).
- c. Relocation of Common Boundary (Boundary Adjustment)
  - (1) Statement of Intent

The intended purpose of this exemption is to allow a change in the location of a boundary line between two adjoining parcels and to allow a transfer of a tract to effect that change in location without local subdivision review.
  - (2) Certificates of survey claiming this exemption must clearly distinguish between the existing boundary location and the new boundary. This shall be accomplished by representing the existing boundary with a dashed line and the new boundary with a solid line. The appropriate landowner certification must be included on the certificate of survey.
  - (3) Where the boundary adjustment will affect more than one set of landowners, a certificate of survey showing the relocation of common boundary lines must be accompanied by a quitclaim deed from the adjoining property owner(s) for the newly described parcel or parcels. All affected landowners must sign the application for exemption.
  - (4) A proposed division of land as a boundary adjustment may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:
    - (a) The boundary adjustment will result in the permanent creation of an additional parcel of land.
    - (b) The submitted documentation does not support the stated reason for relocation.

- (c) The proposed relocation of common boundary lines significantly rearranges multiple parcels with little or no resemblance to the original parcel configuration.
- d. Division to Provide Security for a Mortgages, Liens or Trust Indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.
  - (1) When this exemption is to be used, the landowner shall submit to the clerk and recorder a signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.
  - (2) Pursuant to 76-3-201(3), the land divided by this exemption may be of any size. Further, this exemption applies if the land that is divided is not conveyed to any entity other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. A transfer of the divided land, by the owner of the property at the time that the land was divided, to any party other than those identified in this subsection subjects the division of land to the subdivision review requirements outlined in Chapter II, except as provided in subsection b.(2)(a) below.
    - (a) If a parcel of land located within the county was divided pursuant to 76-3-201(1)(b), MCA and one of the parcels created by the division was conveyed by the landowner to another party without a foreclosure before October 1, 2003, the remaining parcel is not subject to the requirements of the Montana Subdivision and Platting Act.
  - (3) A proposed division of land as mortgage exemption may be declared to be an evasion of the Act if it is determined that one or more of the following conditions exist:
    - (a) More than one new building site will be created.
    - (b) The financing is not for construction or improvements on the exempted parcel, or for refinancing.
    - (c) The person named in the “statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed” is anyone other than the borrower of funds for construction or refinancing.
    - (d) Title to the exempted interest would not be initially obtained by the lending institution in the event of foreclosure.

- (e) There exists a prior agreement to default or a prior agreement to purchase only a portion of the original tract.
- (f) It appears that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose.
- (g) The division of land is created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.

## **VI-E. SPECIAL REQUIREMENTS**

### **1. County treasurer**

Division of lands under 76-3-207, MCA may not be made unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

### **2. Examining land surveyor**

Pursuant to 76-3-611(2)(a), MCA, the governing body may require that certificates of survey be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. If an examining land surveyor has reviewed a certificate of survey or amended plat and found it to meet the surveying and filing requirements of the Montana Subdivision and Platting Act, the examining land surveyor shall certify the compliance in a printed or stamped certificate on the certificate of survey or plat. The certificate or plat must be signed by the examining land surveyor. Fees for the examining land surveyor will be paid by the person submitting the plat or survey.

# LIST OF APPENDICES

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## *VERIFY THE CURRENCY OF FORMS / MATERIALS BEFORE SUBMITTAL*

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### GENERAL PURPOSE APPENDICES

APPENDIX 1	Review Agencies and Sources of Information
APPENDIX 2	Summary of Montana Environmental Permits
APPENDIX 3	Surveying / Monumentation Requirements
APPENDIX 4	Fee Schedule

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### OVERALL DEVELOPMENT PLAN AND SUBDIVISION REVIEW APPENDICES

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#### PRE-APPLICATION PHASE

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APPENDIX 5	Pre-Application Checklist
APPENDIX 6	Subdivision Assessment Form
APPENDIX 7	Sample Notification Letter – Pre-application Phase
APPENDIX 8	Geological Review

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#### PRELIMINARY PLAT PHASE

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APPENDIX 10	Environmental Assessment
APPENDIX 11	Subdivision Application Form (includes Appendices 11-13)
APPENDIX 12	Joint Application
APPENDIX 13	DEQ Checklist (lots and tracts under 20 acres)
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APPENDIX 15	Land Stewardship Plan and Guidelines
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APPENDIX 17	Sample Notification Letter – After Subdivision Application is Submitted
APPENDIX 18	Noxious Weed Management Plan Application Form

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#### FINAL PLAT PHASE

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APPENDIX 19	Final Plat Checklist
APPENDIX 20	Final Plat Application Form
APPENDIX 21	Sample Public Improvements Agreement, Guarantees, and Letter of Credit
APPENDIX 22	Declaration of Right to Farm, Declaration of Emergency Services Information
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## **EXEMPTION REVIEW APPENDICES**

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APPENDIX 28	Sample Agricultural Covenant

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## **SPECIAL ACTIONS APPENDICES**

APPENDIX 29	Request Form to Lift an Agricultural Exemption
APPENDIX 30	Variance Application Form
APPENDIX 31	Submittal Requirements for Floodplain Permit Application
APPENDIX 32	Amended Plat Checklist
APPENDIX 33	Building Envelope Checklist
APPENDIX 34	Preliminary Plat Extension

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# APPENDIX 1      REVIEW AGENCIES AND SOURCES OF INFORMATION

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Note: Those agencies designated in **bold** type must be contacted prior to submission of an overall development plan and/or subdivision application. The subdivider must contact review agencies at least 30 days in advance of submitting a subdivision application. Contacts should include a request for cumulative impact information.

## LOCAL

- **County planner**
- **County road supervisor**
- **County sanitarian/solid waste manager**
- **County floodplain administrator**
- **County weed coordinator**
- **County sheriff**
- **County office of emergency management**
- **Local fire district**
- **Fire prevention specialist**
- **Local municipality, if located within two (2) miles of proposed subdivision (including Planning Boards)**
- **Local ambulance service**
- **Local quick response unit**
- **Utility companies (e.g., telephone, cable, electrical power, gas)**
- **Local school district -- trustees and superintendent**
- **Local parks, recreation district**
  
- Any existing property owners association potentially affected by the project, as determined by the planner
- County clerk and recorder
- County extension agent
- Local conservation district
- Local post office
- Local chamber of commerce

STATE/FEDERAL	INFORMATION	LOCATION
Montana Bureau of Mines and Geology	Geology, ground water quality and supply, well logs, topographic maps	Butte
Montana Dept. of Environmental Quality	Surface and ground water quality, water supply, sewage treatment, solid waste, storm drainage	Helena office
<b>Montana Dept. of Fish, Wildlife and Parks</b>	Game and non-game species and wildlife habitat, fisheries, state-owned game ranges and fishing access sites, block management program, Crucial Area Planning System (CAPS)	Helena office, Bozeman regional office. Local game wardens are based in Ruby and Madison Valleys. Local wildlife biologists are based in Sheridan and Bozeman.
Montana Dept. of Natural Resources and Conservation <b>Required contact where state trust lands are located within two (2) miles of proposed subdivision, <u>and/or</u> where state trust lands road would provide access to proposed development.</b>	Water bodies, floodplains, well logs, water rights, fire hazards, state trust lands, water rights	Helena, Bozeman
Montana Dept. of Revenue	Assessed valuation, property tax rates	Helena office, Butte regional office, Virginia City office
Montana Dept. of Transportation	Access to state highways, traffic counts, planned highway improvements, aerial photographs	Helena office, Field offices in Butte, Bozeman

STATE/FEDERAL	INFORMATION	LOCATION
Montana State Historical Society	Historic and cultural resources, resource inventory procedures and preservation programs	Helena
U.S. Army Corps of Engineers	Wetlands permitting	Helena
Farm Services Agency	Aerial photographs, agricultural practices and conservation programs	Field offices in Whitehall and Dillon
Natural Resources Conservation Service	Soils and soil erosion, flood hazards, water and land conservation practices and programs	Bozeman regional office, local offices in Sheridan, Whitehall, and Dillon
U.S. Bureau of Land Management <b>Required contact where BLM land is located within two (2) miles of proposed subdivision, <u>and/or</u> where BLM road would provide access to proposed development.</b>	Vegetation, public lands use, mining claims, proposed land exchanges and conservation activities, topographic and other maps	Billings office, Dillon field office
U.S. Forest Service <b>Required contact where USFS land is located within two (2) miles of proposed subdivision, <u>and/or</u> where USFS road would provide access to proposed development.</b>	Vegetation, soils, wildlife, public lands use, proposed conservation activities, topographic and other maps	Ennis, Sheridan, Butte, and Dillon
U.S. Geological Survey	Geology, surface and ground water supply and quality, floodplains, topographic maps	Helena, Bozeman

## APPENDIX 2      MONTANA ENVIRONMENTAL PERMITS

Permit	Contacts	Description	Statute
<b>Airport Affected Area</b>	Madison County Planning Office Madison County Airport Board	Need a permit if use changes or change of use permit to	Madison County AAA Regulations
<b>Building Codes</b>	Department of Labor and Industry Business standards Division (406) 841-2056	Need permit for all construction <b>other than</b> residential structures with fewer than five units, ag buildings, private garages and storage, etc	50-60-101 and 50-60-801 MCA
<b>County Road Permits</b>	Madison County Board of County Commission (406) 843-4277	Need permit for approach/encroachments.	7-14-2139 MCA
<b>Floodplain</b>	County Floodplain Administrator (406) 843-4275 or DNRC if no county rules.	Need permit for obstructions or uses in designated floodplain.	75-5-401 through 406 MCA
<b>Heritage Sites Antiquities Permit</b>	Montana Historical Society-State Historic Preservation Office (406) 444-2694	Need permit to excavate, remove, or restore a heritage property.	22-3-431 MCA
<b>Highway Approach</b>	MT Department of Transportation (406) 444-6200	Need permit for construction of driveways and other approaches intersecting highways and streets.	60-2-201 MCA
<b>Highway Encroachment</b>	MT Department of Transportation (406) 444-6200	Need permit for construction or maintenance of encroachments on or under highway right-of-way	7-14-2139 MCA
<b>Improvement Districts</b>	Madison County Board of County Commissioners (406) 843-4277	Contact local government authorities for more specific information.	Various MCA Statutes
<b>Public Sewer System</b>	Department of Environmental Quality (406) 444-3926	DEQ regulates systems serving 15 connections or more, used by at least 25 persons, for 60 days or more.	75-6-101 MCA
<b>Public Water Supply</b>	Department of Environmental Quality (406) 444-3926	DEQ regulates systems serving 15 connections or more, used by at least 25 persons, for 60 days or more.	37-42-101, 75-6-101, and 50-50-101 MCA
<b>River Setbacks/ Other Regulations</b>	Check with Madison County Planning Office (406) 843-5250	Setback on all construction on the Big Hole River. Setbacks applicable to subdivisions on other rivers and streams in the county.	Madison County Subdivision Regulations

<b>Permit</b>	<b>Contacts</b>	<b>Description</b>	<b>Statute</b>
<b>Sanitation in Subdivisions</b>	Department of Environmental Quality (406) 444-3926 or County Sanitarian (406) 843-4275	Need permit for water and septic systems. Lots smaller than 20 acres are reviewed by DEQ. Larger lots are reviewed by the county.	76-4-101 MCA
<b>Stream Beds Stream Banks</b>	Local Conservation District, DNRC  Jefferson 287-3215 Madison 682-4602 Ruby Valley 843-5741	Need 310 permit for engineering operations for dams, dikes, ponds, ditches, fences, stream crossings, bank stabilization, irrigation diversions, headgates, pumpsite maintenance, etc	75-7-101 MCA
<b>Subdivision and Platting Act</b>	Madison County Planning Office (406) 843-5250	Subdivision regulations apply to all divisions of land less than 160 acres in size, condominiums, mobile home parks and RV parks.	Title 76 MCA, Madison County Subdivision Regulations
<b>Utility Lines</b>	Local Municipalities or County Commission (406) 843-4277	Utility lines construction may be regulated by the county or local municipality in certain areas.	Various MCA Statutes
<b>Water Appropriations</b>	Department of Natural Resources & Conservation (406) 444-2074	Need permit for a well that exceeds 35 gallons per minute or 10 acre-feet of water per year. Also, for state water surface diversions.	85-2-301 MCA
<b>Water Quality</b>	Department of Environmental Quality (406) 444-3926	Permit needed to construct, modify, or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial, or other wastes into state waters.	75-5-101 MCA
<b>Water Wells</b>	Board of Well Water contractors (406) 444-6816  MT Bureau of Mines & Geology (406) 496-4250	A well log report must be filed by the Board of Well Water Contractors to the Montana Bureau of Mines and Geology.	37-43-101 and 85-2-516 MCA
<b>Wetlands</b>	U.S. Army Corps of Engineers (406) 444-1375	Permit is required for placement of dredged or mill materials in waters. Building near wetlands sites.	33 U.S.C. 401
<b>Zoning</b>	Municipalities Currently no county zoning	Check with municipalities.	76-2-101, 76-2-201, 76-2-301 MCA

References: Montana Index of Environmental Permits: Montana Environmental Quality Council, 2014. Madison County Subdivision Regulations.

# **APPENDIX 3      UNIFORM STANDARDS FOR MONUMENTATION, CERTIFICATES OF SURVEY, AND FINAL SUBDIVISION PLATS**

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## **ARM 24.183.1101      UNIFORM STANDARDS FOR MONUMENTATION**

(1) The following standards govern the monumentation of land surveys:

- (a) The terms "monument" and "permanent monument" as used in these regulations mean any structure of masonry, metal or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
- (b) All metal monuments must be at least one-half inch in diameter and 18 inches in length with a cap not less than one inch in diameter marked in a permanent manner with the license number of the surveyor in charge of the survey and either the name of the surveyor or the company employing the surveyor. Metal monuments marking a public land survey corner as described in 70-22-101 , MCA, must be at least 24 inches long and 5/8 inch in diameter with an appropriately stamped metal cap at least two inches in diameter. A monument marking a public land survey corner may also consist of a cap as described in this rule set firmly in concrete.
- (c) Before a subdivision plat or certificate of survey may be filed for record the surveyor shall confirm the location of as many monuments as, in the surveyor's professional judgment, are necessary to reasonably assure the perpetuation of any corner or boundary established by the survey and to enable other surveyors to reestablish those corners and boundaries and retrace the survey. The surveyor shall clearly identify on the face of the plat or certificate of survey all monuments pertinent to the survey, and the descriptions of these monuments must be sufficient to identify the monuments.
- (d) The surveyor shall set all monuments prior to the filing of a plat or certificate of survey except those monuments that will be disturbed by the installation of improvements or that, because of severe weather conditions, may, in the surveyor's judgment, be more appropriately and accurately set after the weather has improved. In these two circumstances the surveyor may set monuments after the survey document is filed if the surveyor certifies on the survey document that the monuments will be set by a specified date. The surveyor shall set monuments, the placement of which has been deferred because of severe weather conditions, within 240 days of the date on which the survey document was filed.

- (i) If during the later monumentation of the corners of a plat or certificate of survey that were not monumented before the plat or certificate was filed, the surveyor finds that it is necessary to set a reference monument to a corner, the surveyor shall prepare and file an amended certificate of survey or subdivision plat.
  - (ii) The failure of the surveyor to set the monuments by the date certified on the record of survey will be deemed a violation of these rules.
- (e) The surveyor shall set monuments at the following locations:
  - (i) At each corner and angle point of all lots, blocks and parcels of land created by the survey.
  - (ii) At every point of intersection of the outer boundary of a subdivision with an existing road right-of-way line of record or a road right-of-way line created by the survey.
  - (iii) At every point of curve, point of tangency, point of reversed curve, point of compounded curve and point of intersection on each road right-of-way line created by the survey.
  - (iv) At the intersection of a boundary line and a meander line. Meander line angle points need not otherwise be monumented.
- (f) If the placement of a required monument at its proper location is physically impractical, the surveyor may set a reference or witness monument. This monument has the same status as other monuments of record if its location is properly shown. If the surveyor relies upon any existing monument in conducting a survey, he or she shall confirm the location of the monument and show and describe it on the resulting certificate of survey or subdivision plat.

## **ARM 24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY**

- (1) A certificate of survey must comply with the following requirements:
  - (a) A certificate of survey must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum 1/2-inch on all sides, or as required by the filing office.

- (b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24# white bond paper or equivalent must be submitted, or on such medium as required by the filing office.
- (c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed on sheet number one of the certificate of survey.
- (d) A certificate of survey must show or contain the following information:
  - (i) a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not contain the title "plat," "subdivision," or any title other than "Certificate of Survey";
  - (ii) the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land surveyed, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;
  - (iii) the date the survey was completed and a brief explanation of why the certificate of survey was prepared, such as to create a new parcel, retrace a section line, or retrace an existing parcel of land;
  - (iv) a north arrow;
  - (v) a scale bar. The scale of the certificate of survey must be sufficient to legibly represent the required information and data on the certificate of survey;
  - (vi) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;
    - (A) If additional monuments are to be set after the certificate of survey is filed, the location of these monuments must be shown by a distinct symbol, and the certificate of survey must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).
    - (B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the certificate of survey must be clearly shown as required by ARM 24.183.1101(1)(c).

- (C) Witness and reference monuments must be clearly shown.
- (vii) the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as a control in the survey;
- (viii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the certificate of survey. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the certificate of survey, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the certificate of survey shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;
- (ix) the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the parcel(s) surveyed. If the parcel surveyed is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;
- (A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.
- (B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.
- (C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.
- (x) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;
- (xi) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric

equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;

(xii) at least one record measurement reference for each line and curve, if available, must be shown;

(xiii) a narrative legal description of the parcel(s) surveyed.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(I) If the parcel surveyed is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the parcel;

(II) If the certificate of survey depicts the division of one or more parcels shown on a previously filed certificate of survey, the narrative legal description may be the number of the previously filed certificate of survey and the parcel number of the parcel(s) previously surveyed;

(III) If the certificate of survey depicts the retracement of one or more parcels shown on a previously filed certificate of survey, plat, or amended plat, the narrative legal description may be the number of the previously filed certificate of survey or the name of the previously filed plat or amended plat, and the parcel number of the parcel(s) previously surveyed;

(IV) If the survey creates or retraces one or more parcels, the narrative legal description may be either the metes-and-bounds description of each individual parcel created by the survey or the metes-and-bounds description of the perimeter boundary of the parcels surveyed; or

(V) If the narrative legal description does not fall within (1)(d)(xiii)(A)(I), (II), or (III), then the narrative legal description required by this subsection must conform with (1)(d)(xiii)(A)(IV).

(B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the parcel surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the certificate of survey.

- (C) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel.
  - (xiv) all parcels created or retraced by the certificate of survey designated by number or letter, and the bearings, distances, curve data, and area of each parcel, except as provided in (1)(f)(iii). If a parcel created by the certificate of survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification;
  - (xv) the location, bearings, distances, and curve data of any easement that will be created by reference to the certificate of survey;
  - (xvi) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the certificate of survey has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act;
  - (xvii) a memorandum of any oaths administered under 76-3-405, MCA;
  - (xviii) if applicable, the certificate of the examining land surveyor; and
  - (xix) space for the clerk and recorder's filing information.
- (e) Certificates of survey that do not represent a division or aggregation of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must contain a statement as to their purpose and must meet applicable requirements of this rule for form and content. If the purpose of a certificate of survey is stated as a retracement or partial retracement, and if multiple tracts of record contained within the parcel's perimeter boundary on the certificate of survey are not individually shown, then the certificate of survey does not expunge the tracts of record unless it conforms to (1)(f)(iv) and contains the acknowledged certificate of the property owner(s) citing the applicable exemption in its entirety.
- (f) Procedures for divisions of land exempted from review as subdivisions. If one or more parcels on a certificate of survey is created by an exemption from subdivision review under 76-3-207, MCA, then, except as provided in (1)(f)(iii) and (iv), the certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the

existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY". The certificate of survey must contain the acknowledged certificate of the property owner stating that the division of land is exempt from review as a subdivision and cite the applicable exemption in its entirety. The certificate of survey must meet the following requirements:

- (i) If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it shows or contains a signed and acknowledged recitation of the covenant in its entirety.
- (ii) If a certificate of survey invokes the exemption for gift(s) or sale(s) to members of the landowner's immediate family, the certificate of survey must indicate the name of the proposed grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee.
- (iii) If a certificate of survey invokes the exemption for the relocation of common boundary line(s):
  - (A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed relocation. The certificate of survey must show that the exemption was used only to change the location of a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new boundary location or locations (shown, for example, by solid line(s) with a notation);
  - (B) The certificate of survey must show the boundaries of the area that is being removed from one tract of record and joined with another tract of record. The certificate of survey is not required to establish, but may establish, the exterior boundaries of the resulting tracts of record. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to clearly identify both the location and the extent of the boundary relocation. Unsurveyed portions of the tracts of record must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY"; and
  - (C) The certificate of survey must contain the following notation: "The area that is being removed from one tract of record and joined with another tract of record is not itself a tract of record. Said area shall not be available as a reference legal description in any subsequent real

property transfer after the initial transfer associated with the [certificate of survey or amended plat] on which said area is described, unless said area is included with or excluded from adjoining tracts of record."

- (iv) If a certificate of survey invokes the exemption for aggregation of parcels or lots:
  - (A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed aggregation. The certificate of survey must show that the exemption was used only to eliminate a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new perimeter boundary location or locations (shown, for example, by solid line(s) with a notation); and
  - (B) The certificate of survey must establish the perimeter boundary of the resulting tract(s) of record.
- (v) A survey document that modifies lots on a filed plat and invokes an exemption from subdivision review under 76-3-201 or 76-3-207(1)(d), (e), or (f), MCA, must be entitled "amended plat of [lot, block, and name of subdivision being amended]," but for all other purposes must comply with the requirements for form and descriptive content of certificates of survey contained in this rule.
- (vi) If the certificate of survey invokes an exemption from subdivision review under 76-3-207, MCA, the certificate of survey must contain or be accompanied by a certification by the county treasurer that all real property taxes and special assessments assessed and levied on the surveyed land have been paid.
- (vii) For purposes of this rule, when the parcel of land for which an exemption from subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed.
- (g) The land surveyor, at his or her discretion, may provide additional information on the certificate of survey regarding the survey.
- (h) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Montana Subdivision and Platting Act. The divisions of land described in 76-3-201, 76-3-205, and 76-3-209, MCA, and divisions of federally owned land made by a U.S. government agency are not required to be surveyed, nor must a certificate of survey or plat showing these divisions be filed with the clerk and recorder. However, a

certificate of survey of one of these divisions may be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule, and contains a certificate of all the landowners citing the applicable exemption from the Act in its entirety, or when applicable, that the land surveyed is owned by the federal government. The certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY."

## **ARM 24.183.1107    UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS**

(1) A final subdivision plat must comply with the following requirements:

- (a) the plat complies with the requirements contained in (2);
- (b) the plat includes a Conditions of Approval sheet(s) that complies with the requirements contained in (4); and
- (c) the plat is accompanied by documents listed in (5).

(2) A plat must comply with the following requirements:

- (a) A plat must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches. Margins must be a minimum 1/2-inch on all sides, or as required by the filing office.
- (b) One original on three mil or heavier matte stable-base polyester film or equivalent and/or one original on 24# white bond paper or equivalent must be submitted, or on such medium as required by the filing office.
- (c) If more than one sheet must be used to adequately depict the land surveyed, each sheet must show the number of that sheet and the total number of sheets included. Except as provided in (4)(b), all certifications must be placed on sheet number one of the plat.
- (d) A survey document that results in an increase in the number of lots or modifies six or more lots on a filed plat must be entitled "amended plat of (lot, block, and name of subdivision being amended)," and unless it is exempt

from subdivision review by 76-3-201 or 76-3-207(1)(d), (e), or (f), MCA, must meet the filing requirements for final subdivision plats specified in this rule.

(e) A plat must show or contain the following information:

- (i) a title or title block including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition";
- (ii) the name(s) of the person(s) who commissioned the survey, the name(s) of the owner(s) of the land to be subdivided, if other than the person(s) commissioning the survey, the names of any adjoining plats, and the numbers of any adjoining certificates of survey previously filed;
- (iii) a north arrow;
- (iv) a scale bar. The scale of the plat must be sufficient to legibly represent the required information and data on the plat;
- (v) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101;
  - (A) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).
  - (B) All monuments found during the survey that influenced the position of any corner or boundary indicated on the plat must be clearly shown as required by ARM 24.183.1101(1)(c).
  - (C) Witness and reference monuments must be clearly shown.
- (vi) the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey or was used as control in the survey;
- (vii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the plat. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the plat, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or

number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;

(viii) the bearings, distances, and curve data of all boundary lines and all control or pertinent lines used to determine the boundaries of the subdivision. If the subdivision is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

(A) The courses along a meander line are shown solely to provide a basis for calculating the area of a parcel that has one or more riparian boundaries as the parcel existed at the time of survey.

(B) For purposes of this rule, a line that indicates a fixed boundary of a parcel is not a "meander" or "meander line" and may not be designated as one.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.

(ix) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. Non-tangent curves must be so labeled;

(x) lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically;

(xi) at least one record measurement reference for each line and curve, if available, must be shown;

(xii) all lots and blocks in the subdivision designated by number, the bearings, distances, and curve data of each lot and block, the area of each lot, and the total area of all lots. (Excepted lands must be labeled "NOT INCLUDED IN THIS SUBDIVISION" or "NOT INCLUDED IN THIS PLAT";

(xiii) all existing rights-of-way for streets, alleys, avenues, roads, and highways that adjoin or are within the boundaries of the subdivision; their names and widths from public record (if ascertainable); the bearings,

distances, and curve data of their adjoining boundaries. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown;

(xiv) all rights-of-way for streets, alleys, avenues, roads, and highways that will be created by the filing of the plat; their names, widths, bearings, distances, curve data, and area;

(xv) except as provided in (2)(d)(xiii) and (xiv), the location, bearings, distances, curve data, and areas of all parks, common areas, and other grounds dedicated for public use;

(xvi) the total area of the subdivision;

(xvii) a narrative legal description of the subdivision.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(I) If the land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the land;

(II) If the plat depicts the division of one or more parcels shown on a previously filed certificate of survey or plat, the narrative legal description may be the number of the previously filed certificate of survey or name of the previously filed plat and the parcel number of the parcel(s) previously surveyed;

(III) The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision; or

(IV) If the narrative legal description does not fall within (2)(e)(xvii)(A)(I) or (II), the narrative legal description required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision.

(B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the plat.

- (xviii) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under the Act. The land surveyor's signature and certification do not include certification of the Conditions of Approval sheet(s);
- (xix) a memorandum of any oaths administered under 76-3-405, MCA;
- (xx) the dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of this rule, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed;
- (xxi) certification by the governing body that the final plat is approved;
- (xxii) if applicable, the landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements;
- (xxiii) if applicable, or as required by subdivision regulations, the landowner(s)' certification statement(s) as follows:
- (A) A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the Conditions of Approval sheet or as otherwise stated.
  - (B) A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.
  - (C) A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-3-507, MCA, secure the future construction of any remaining public improvements to be installed.
- (xxiv) if applicable, a certificate of the governing body accepting any dedicated land, easements, or improvements;
- (xxv) if applicable, the certificate of the examining land surveyor;

- (xxvi) space for the clerk and recorder's filing information; and
  - (xxvii) a minimum two-inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents listed in (5).
- (f) The land surveyor, at his or her discretion, may provide additional information on the plat regarding the survey.
- (3) The following certifications of final plat approval must appear on the plat or on the Conditions of Approval sheet as contained in (4), or recorded or filed as contained in (5) of these rules:
- (a) A certification by the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid and, if applicable, certification of the local health officer having jurisdiction.
- (4) If applicable, a sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "Conditions of Approval of [insert name of subdivision]" with a title block including the quarter-section, section, township, range, principal meridian, county, and, if applicable, city or town in which the subdivision is located, and shall contain:
- (a) any text and/or graphic representations of requirements by the governing body for final plat approval including, but not limited to, setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;
  - (b) a certification statement by the landowner that the text and/or graphics shown on the Conditions of Approval sheet(s) represent(s) requirements by the governing body for final plat approval and that all conditions of subdivision application have been satisfied; and
  - (c) a notation stating that the information shown is current as of the date of the certification required in (4)(b), and that changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations.
- (5) If applicable, the following documents as specified by local government shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:

- (a) a title report or certificate of a title abstractor showing the names of the owners of record of the land to be subdivided, and the names of any lien holders or claimants of record against the land, and the written consent to the subdivision by the owners of the land if other than the subdivider, and any lien holders or claimants of record against the land;
- (b) any covenants or deed restrictions relating to the subdivision;
- (c) for lots less than 20 acres in size, exclusive of public roadways, a certification from the Montana Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4-104(2), MCA;
- (d) if required by the governing body, for lots of 20 acres or greater in size, written documentation that the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and replacement drainfield for each lot in accordance with 76-3-604(8)(b), MCA;
- (e) a copy of any security requirements, pursuant to 76-3-507, MCA, securing the future construction of any remaining public improvements to be installed;
- (f) unless otherwise provided in local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a professional engineer that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed, or file them with a government official other than the clerk and recorder, or both. If the approved plans and specifications are or will be filed with a government official other than the clerk and recorder, then a document or a statement on the Conditions of Approval sheet that states where the plans can be obtained must be filed or recorded;
- (g) if a street, alley, avenue, road, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit; and
- (h) any other documents satisfying subdivision application approval required by the governing body to be filed or recorded.

## APPENDIX 4 SUBDIVISION REVIEW FEE SCHEDULE

Pursuant to 76-3-201 and 602, MCA, the subdivider shall pay the following non-refundable fees:

<b>PLANNING DEPARTMENT FEES</b> <i>(fees paid to Madison County Planning Department)</i>		
<b>1. Subdivision Review:</b> <i>Applicable to all new subdivisions and amended plats going through the subdivision process. Fees are based on Subdivision Type and Number of Lots. One condominium unit or one RV or mobile home space or one townhouse equates to one lot.</i>		
	<ul style="list-style-type: none"> <li>• First Minor Subdivision, 1-2 lots</li> <li>• First Minor Subdivision Expedited Review, 1-5 lots <i>(property must be located in an area covered by a current Community Plan)</i></li> </ul>	<ul style="list-style-type: none"> <li>• First Minor Subdivision, 3-5 lots</li> <li>• Subsequent Minor Subdivision, 1-5 lots</li> <li>• Major Subdivision, 6+ lots</li> </ul>
Pre-application	\$100	\$100
Preliminary Plat or Plan	\$850	\$3,000 + \$100 for each lot over 3 plus actual certified mailing cost <i>(Note – For the first application submitted under a previously approved Overall Development Plan or plan amendment, the fee is reduced by \$1,000.)</i>
Final Plat or Plan	\$150	\$1,000 + \$50 for each lot over 3
<b>2. Overall Development Plan Review</b>	No Charge	\$1,000 plus certified mailing cost <i>(Note - Applicable to new plans and plan amendments when not included as part of a subdivision application)</i>
<b>3. Amended Conditions of Preliminary Plat Approval Review:</b> <i>Applicable to requests made after the governing body has conditionally approved a preliminary plat.</i>		\$1,000
<b>4. Amended Plat Review:</b> <i>Applicable to plats which do not qualify as subdivision exemptions, and which do not have to go through the subdivision process, but which require the review and approval of the governing body</i>		\$1,000

<b>5. Variance Request Application</b>		
<ul style="list-style-type: none"> <li>Submitted with preliminary plat</li> <li>Submitted after preliminary plat approval is granted</li> </ul>		\$500 per variance requested \$2,000 per variance requested
<b>6. Building Envelope Change Review:</b> <i>Applicable to <u>non-platted</u> building envelopes. Platted building envelopes are subject to the Amended Plat Review.</i>		
Review of proposed change		\$500
Appeal of Planning Department decision		\$750

<b>7. PUBLIC SAFETY REVIEW FEES</b> <i>(FEE PAID TO THE MADISON COUNTY PLANNING DEPARTMENT FOR DISTRIBUTION TO THE OFFICE OF EMERGENCY MANAGEMENT)</i>		
Review Type	1-2 Lots/Spaces/Units	3 or More Lots/Spaces/Units
Overall Development Plan <i>(Note: Fee waived when submitted with a subdivision)</i>	\$100	\$100
Pre-Application	\$100	\$80 + \$10 / lot
Application	\$ 50	\$60 + \$10 / lot
Final Inspection	\$ 70	\$70 + \$10 / lot

**8. Noxious Weed Management Plan** *(Fee goes to the Madison County Weed Department)*

Proposed subdivisions of:

- Five or fewer lots/spaces/units - \$75 plus mileage (at State rate per mile)
- Six or more lots/spaces/units - \$75 plus mileage (at State rate per mile) plus \$7.50 per lot

**9. Sanitation Review Fee where proposed lots are 20 or more acres** *(Fee goes to the Madison County Planning Department for distribution to the Sanitarian's Office)*

- \$100 per subdivision application + \$50 per lot/space/unit + mileage (at State rate per mile).

**10. Subdivision Exemption Review Fee** *(Fee is paid to the Madison County Clerk & Recorder, then split equally among the Madison County Clerk & Recorder's Office, Sanitarian's Department, and Planning Department)*

- \$150

**11. Subdivision Recording Fees**

- As set by Madison County Clerk & Recorder's Office. Fees are due at the time documents are submitted for filing/recording.

# APPENDIX 5      PRE-APPLICATION CHECKLIST

Subdivision / Project Name: \_\_\_\_\_

Subdivider Name: \_\_\_\_\_

Required Information	Information Provided	
	Applicant	Staff Verified
<b>1. Narrative</b>		
a. Describes proposed subdivision		
b. Identifies landowner (including names of the principal of an LLC or corporation), subdivider, and subdivider representative names, addresses, and telephone numbers		
c. Includes a complete legal description of the property		
d. Documents the proposed subdivisions as a first minor (if applicable)		
e. Documents any water rights		
f. Identify any special improvement districts or rural improvements districts		
<b>2. Subdivision Assessment Form</b> (Appendix 6) - signed		
<b>3. Vicinity map</b> showing the location of the proposed subdivision in relation to nearby landmarks		
<b>4. Crucial Area Planning System</b> (through Montana FWP) results		
<b>5. Sketch plan</b>		
a. Information on the <u>current status</u> of the site: 1. existing tract and lot boundaries 2. description of general terrain, including topography 3. natural features on the land, including water bodies 4. existing structures and improvements 5. existing utility lines and facilities serving the site, including irrigation ditches and other water user facilities 6. existing easements and rights-of-way 7. existing zoning or development regulation standards 8. existing conservation easements 9. existing covenants or deed restrictions 10. adjacent land uses		
b. Information on the <u>proposed subdivision</u> 1. tract and lot boundaries 2. land uses		

3. proposed phasing, if applicable 4. public and private improvements 5. location of utility lines and facilities 6. easements and rights of way 7. parkland, open space, and/or conservation easements		
<b>6. Fee</b> – payable to Madison County Planning a. Planning Review \$100 b. Public Safety Review - \$80 plus \$10/lot		
<b>7. Notification Letter/List</b> – agencies, adjacent landowners <sup>3</sup> , lienholders, etc.		
<b>OFFICE USE ONLY</b>  Pre-application Received on ____/____/____ by _____  Materials deemed complete on ____/____/____ by _____  Subdivider authorized to send out notifications on ____/____/____ (allow 30 days for comments)  19 additional copies received on ____/____/____  Scheduled for Planning Board meeting of ____/____/____  Site Visit ____/____/____		

<sup>3</sup> Refer to records in the Clerk and Recorder's and Treasure's offices for names and addresses of adjacent landowners

## APPENDIX 6 SUBDIVISION ASSESSMENT FORM

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Each subdivision application will be reviewed for substantial compliance with the Guiding Principles, Goals and Objectives of the Madison County Growth Policy. Each project will also be reviewed for its potential effects on the Public Interest Review Criteria. These items are listed below and discussed further in Appendices 10 and 16.

### **GUIDING PRINCIPLES, Madison County Growth Policy:**

- Locate new development close to existing services and communities.
- Protect our river corridors.
- Preserve our most productive agricultural lands.
- New development should pay its own way.
- Respect private property rights.

### **GOALS and OBJECTIVES, Madison County Growth Policy:**

- *Land Use.* Use our land base to support a mix of activities...in ways that accommodate growth, minimize conflict among adjacent land uses, promote efficient use of land, protect public health and safety, and reflect the five Guiding Principles.
- *The Economy.* Strengthen the major sectors of our local economy, and diversify the economic base.
- *The Environment.* Protect the quality of our air, groundwater, surface waters, soils, vegetation, fish and wildlife habitat, scenic views, cultural and historic resources.
- *Recreation.* Support a variety of recreational opportunities for both local residents and visitors.
- *Public Services.* Provide high-quality public services to local residents and visitors in safe, fair, and cost-effective ways.
- *Communication, Coordination, and Citizen Participation.* Promote an open, inclusive, and coordinated approach to planning for the future in Madison County.

**TEN PUBLIC INTEREST REVIEW CRITERIA:** Agriculture, agricultural water user facilities, natural environment, wildlife, wildlife habitat, local services, public health and safety, County resources, local economy, and public services provided by other entities in the County.

A proposed subdivision may have positive, neutral, and/or negative effects. Where potential negative effects are identified, the project may be required to include mitigation measures that will reduce or eliminate the negative impacts. In some cases, negative impacts cannot be mitigated and may be grounds for denial of the subdivision application.

***I've read and understand that the above criteria will be used in evaluating my subdivision application.***

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[Print Landowner Name Here]

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[Sign and Date Here]

## APPENDIX 7      **SAMPLE NOTIFICATION LETTER: PRE-APPLICATION PHASE**

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NOTE: Letter is not sent until Planning staff has reviewed and approved the packet.

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**[Date Mailed]**

TO:            Adjacent Property Owners  
                Lien Holders  
                Easement Holders  
                Potentially Affected Water Users  
                Potentially Affected Property Owner Associations  
                Review Agencies  
                Nearby Municipality

FROM:        **[Landowner name and contact information. Also, name and contact  
information for landowner's representative, if pertinent]**

RE:           **[Proposed Subdivision and Legal Description of Site]**

This is to notify you that we are preparing a subdivision application for review by Madison County. Enclosed for your information is a pre-application packet describing the proposed project.

Please contact us with any questions, comments, or suggestions you may have, within the next 30 days at the following address:

**[contact name, address, phone number, email, fax, ...]**

Thank you.

Enclosure

## APPENDIX 8 GEOLOGICAL REVIEW CHECKLIST

<b>Subdivision name:</b>					
<b>If ONE of the these items is checked, a geological assessment is required:</b>					
<b>Soil Survey Data</b> shows potentially moderate to severe limitations due to slope, wetness, cut banks, cave, frost action, shrink-swell, low strength, and/or too clayey characteristics.					
		<b>Not Limited</b>	<b>Somewhat Limited</b>	<b>Very Limited</b>	<b>Comments</b>
	With basements				
	Without basements				
	Commercial				
	Shallow excavations				
	Unpaved roads				
	Paved roads				
	Septic tank absorption fields				
<b>Geology maps show:</b>					
	Landslide deposits (Ql) or rock units known to be prone to failure (Tbz, Km, Ks, Kk).				
	Major fault lines running through alluvial fan deposits (Qf).				
<b>If TWO or MORE of these items are checked, a geological assessment is required:</b>					
<b>Geology map of earthquakes and faults</b> (prepared by Mike Stickney, MT Bureau of Mines and Geology) shows:					
	- One or more faults.				
	- Seismic Zone Area 3.				
<b>USGS Map or Site Visit</b> shows:					
	- Irregular hummocky topography.				
	- Area of little springs and ponds, aligned springs.				
	- Glacial features on slopes >25%.				
	- Previous history of slope failure.				
	- Evidence of frost action (or "sheep trails").				
	- Evidence of avalanche.				
	- Accumulations of loose rock in talus, rock streams, rock glaciers.				
	- Presence of shales, swelling clays, popcorn soils.				

**GEOLOGICAL ASSESSMENT NEEDED? YES or NO**

A waiver may be requested from the Planning Board during the pre-application phase.

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_

----Checklist prepared in consultation with former State Geologist Edward T. Ruppel, February 2003

## APPENDIX 9 PRELIMINARY PLAT CHECKLIST

### Section A: Completed by Subdivider

Name of Proposed Subdivision:
Location:
Property Owner:
Legal Description:
Property Geocode/Parcel ID:

Subdivider Explanatory Comments:

#### 20 copies submitted to Planning Office (*AFTER sufficiency is met*):

☐ Preliminary Plat or Plan

24" x 36" in size

(For one-or-two lot proposed subdivisions, 18 of the 20 copies may be 11" x 17" in size.)

☐ Preliminary Plat Supplements

#### Additional public review copies

☐ (Required) Placed in local library: Date\_\_\_\_\_

Library\_\_\_\_\_

☐ (Big Sky only) Placed at Big Sky Fire Department and/or Yellowstone Club:

Date\_\_\_\_\_

### Section B: Completed by Planner

PLANNER REVIEW	Date:	By:	Comment:
Received:			
Element Review			
Element Complete:			
Sufficiency Review:			
Meets sufficiency:			

### Section C: Completed by Subdivider and Planner

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
Documentation of Status as First Minor Subdivision					
Subdivision Application Form (Appendix 11)					
Subdivision Review Fee.					
<b>Preliminary Plat or Plan</b> 24" x 36" in size					
Preliminary Plat Contents <i>(Surveyor should be made aware of these requirements.)</i>					
a. Title Block.					
1. Name and location of subdivision (Name does not duplicate another subdivision).					
2. Scale					
3. North arrow.					
4. Date of preparation.					
b. Vicinity map.					
c. Approximate exterior boundaries of the platted tract and location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.					
d. All lots and blocks, designated by numbers, and the approximate dimensions and area of each lot.					
e. All roadways and right-of-way width/grades/curvature of each, with existing and proposed roadway names (New road names have been approved by Madison County).					
f. Proposed intersection locations or other access points for any subdivision requiring access to highways, arterials, and collectors.					
g. Approximate location, boundaries, dimensions, and areas of all parks, common grounds, or other grounds dedicated for public use.					

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
h. Existing and proposed utilities located on or adjacent to the tract, including:					
1. Approximate location, size, and depth of sanitary and storm sewers, water mains, fire hydrants, dry hydrants, cisterns, and any other water					
2. Approximate location of gas, electric, and telephone lines, and street lights.					
3. Approximate location of the nearest water mains and sewer lines where none are located on or adjacent to the tract.					
4. Existing irrigation ditches and canals.					
i. Ground Elevations on the Tract. Contour intervals are provided at suggested vertical intervals of: two (2) feet where the average slope is 0-2%, five (5) feet where the average slope is 3-7%, and ten (10) feet where the average slope is over 7%. <i>Notes: (1) A cross section may be required to define drainage patterns. (2) United States Geological Survey data or other information may be used, if it presents an accurate and usable representation of ground features.</i>					
j. Approximate location of existing buildings, structures, and improvements.					
k. Approximate location and identity of existing and proposed public and private easements and rights-of-way, including description of their width and purpose. This includes conservation easements.					
l. Approximate location of any water bodies.					
m. Floodway survey data, when required.					
n. Construction setback from any river running through or immediately adjacent to the proposed subdivision.					

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
o. Proposed building envelopes.					
p. Names of adjoining platted subdivisions and numbers of adjoining COSs previously recorded.					
q. Ownership of all lands adjacent to the subdivision and to the access road leading from a present public right-of-way to the boundary of the proposed subdivision.					
<b>Preliminary Plat Supplements:</b>					
a. A vicinity sketch or sketches showing conditions on subject land and adjacent land, including:					
1. Clear indication of the proposed subdivision on an U.S. Geological Survey topographic map, aerial photograph, or location map.					
2. Approximate direction and gradient of ground slope, including any embankments or retaining walls.					
3. Current land uses.					
4. Location of buildings, railroads, power lines, towers, and roads.					
5. Location of any known potential man-made or natural hazards.					
b. Any existing or proposed zoning (or other land use regulation) on the proposed subdivision tract and in the vicinity.					
c. Overall development plan or notice of plan approval by governing body.					

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
d. Where land will be dedicated to public use, either: 1. A dedication certificate of a licensed title abstractor showing the written consent of the dedication by the owners of the land and any lien holders or claimants of record against the land; or, 2. Title insurance guaranteeing the dedication, in a reasonable amount (to be determined by the governing body).					
e. Drafts of any covenants and restrictions to be included in deeds or contracts for sale.					
f. Draft of any owners' association covenants.					
g. Draft of any plat approval covenants.					
h. Names and addresses of adjoining landowners, and documentation that they have received at least 30 days' advanced notification of the proposed subdivision. Include any comments received.					
i. Names and addresses of all lien holders, easement holders, potentially affected water users (if any, and if known), and any property owners association potentially affected by the project as determined by the planner. Documentation that they have received at least 30 days' advanced notification of the proposed subdivision. Include any comments received.					

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
j. Names and addresses of public agencies and municipalities located within two (2) miles of the proposed subdivision (including any agencies who manage a road that would provide access to the development), and documentation that they have received at least 30 days' advanced notification of the proposed subdivision. Include any comments received.					
k. Verification that other review agencies, as required (See Appendix 1), have received at least 30 days' advanced notification of the proposed subdivision. Include any comments received.					
l. Verification that local library has received a copy of the subdivision application package.					
m. Copies of easements, proposed easements, or other documents verifying legal access to the subdivision.					
n. Calculations, documentation pertaining to parkland dedication or cash-in-lieu.					
o. Water and sanitation information, as outlined in Appendix 13 or 14. Approval from DEQ or County Sanitarian, if available.					
p. Environmental assessment (Appendix 10) 1. Select one <input type="checkbox"/> Full. <input type="checkbox"/> Partial. <input type="checkbox"/> Exemption statement from Planning Board.					

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner			
		Element Review		Sufficiency Review	
		Missing	OK/NA	Missing	OK/NA
2. Required special studies, such as: <input type="checkbox"/> Geological assessment <input type="checkbox"/> Hydrology study <input type="checkbox"/> Wetlands delineation <input type="checkbox"/> Floodplain survey <input type="checkbox"/> Traffic impact analysis <input type="checkbox"/> Fire protection plan <input type="checkbox"/> Cultural resources survey <input type="checkbox"/> Other (list)					
q. Floodplain development permit, if required (Appendix 31).					
r. Receipt for noxious weed management plan and review fee (Appendix 18).					
s. Explanation of water rights/mineral rights.					
t. Land stewardship plan (Appendix 15).					
u. Statement of how the proposed subdivision meets the ten (10) public interest review criteria and the goals and objectives of the Madison County Growth Policy (Guidelines are included in Appendices 10 and 16).					
v. Overall phasing plan and phasing schedule					
w. Other public comments received.					
Special information for:					
a. Mobile home parks. b. Recreational vehicle parks. c. Condominiums or townhouses. d. Planned unit developments.					
Preliminary Plat Checklist (one copy only).					

## APPENDIX 10 ENVIRONMENTAL ASSESSMENT

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Pursuant to 76-3-603, MCA, the environmental assessment of a proposed subdivision of six (6) or more lots must include the following items:

- A description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision.
- A summary of the probable impacts of the proposed subdivision based on the seven (7) public interest criteria described in 76-3-608, MCA.
- A community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection.
- Additional relevant and reasonable information related to these regulations.

Pursuant to 76-3-603, MCA, the environmental assessment of a proposed subdivision subdivision of five (5) or fewer lots must include a summary of the probable impacts of the proposed subdivision based on the seven (7) public interest criteria described in 76-3-608, MCA.

Environmental assessments of all proposed subdivisions must also consider the probable impacts on the three (3) additional criteria outlined in Section II-E.2.c.

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Purpose: The purpose of the environmental assessment is to assist the subdivider and governing body in evaluating the potential effects, positive and negative, of the proposed subdivision. If portions of the environmental assessment are prepared prior to final design of a proposed subdivision, the exercise can help the subdivider evaluate the suitability of the site for the proposed subdivision, assist the subdivider in working out a quality subdivision design, and produce a subdivision proposal which minimizes the potential for negative impacts.

Impacts should be considered at three levels: (1) the immediate site of the proposed subdivision, (2) the general vicinity or neighborhood, and (3) the county.

Subdividers proposing to create six (6) or more lots must provide the information outlined in the checklist below. A completed copy of the checklist must also be provided.

Subdividers proposing a minor subdivision of five (5) or fewer lots must provide Checklist Item 1 and a summary discussion of the public interest criteria listed under Checklist Items 2 and 3.

Information sources must be identified. Review agency contacts can help provide much of the information. See Appendix 1. Note that some of these contacts must be made prior to submitting the subdivision application package or overall development plan.

<b>ENVIRONMENTAL ASSESSMENT CHECKLIST</b>		
<b>Required Information</b>	<b>Subdivider Checklist</b>	<b>Planner Checklist</b>
1. Part II and Part III of the Montana Dept. of Environmental Quality/Local Government Joint Application Form (See Appendix 12.)		
2. Discussion of seven (7) public interest criteria (Questions to consider are attached): a. Effect on agriculture b. Effect on agricultural water user facilities c. Effect on the natural environment. d. Effect on wildlife e. Effect on wildlife habitat. f. Effect on local services, including the community service needs assessment described in state statutes as a "community impact report". g. Effect on public health and safety.		
3. Discussion of three (3) additional public interest criteria (Questions to consider are attached). a. Effect on other resources in the county b. Effect on local economy. c. Effect on public services provided by other entities in the county.		

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## DISCUSSION OF PUBLIC INTEREST CRITERIA

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**Note:** The following questions are intended to be used as a guide for addressing the public interest criteria. The subdivider must demonstrate, through the environmental assessment, that the proposed subdivision has been designed with consideration of these criteria.

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### ***#1. Effect of proposed subdivision on agriculture***

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- Has the land historically been used for agriculture? How is the land currently used, and what are the proposed uses? If the land is not currently used for agriculture, does it have potential as highly productive agricultural ground?
- What percentage of this land is considered “prime or unique farmland” (according to Natural Resource Conservation Service definition), or “prime forestland” (according to U.S. Forest Service definition)?
- What percentage of this land can be described as “productive” agricultural land, taking into consideration factors such as: soil quality, topography, climate, vegetation, availability of water, existing land use patterns, technological and energy inputs required, suitability for crop-raising/livestock grazing/timber growth, and accepted agricultural practices?
- Is the proposed subdivision designed to keep a portion of the land in agricultural use? Is the proposed subdivision designed to avoid development of the most productive acreage? Is the proposed subdivision designed to avoid development of acreage that plays a vital role in an existing agricultural operation (e.g., spring pasture)?
- If the subdivision is approved, how much land will be taken out of agriculture?
- Is this proposed subdivision intended to provide an agricultural producer with funds that will help maintain or expand an existing agricultural operation in Madison County?
- Will irrigation water rights be conveyed with the proposed lots? If so, is there a plan for the distribution of water to the lots?
- Are upslope or downslope properties currently irrigated? If so, how will the proposed subdivision affect them? How will they affect the proposed subdivision?
- What are the adjacent land uses? Is the majority of adjacent land in agricultural use? Is the majority of adjacent land subdivided into lots less than 160 acres in size?

- What measures will be taken to ensure that the proposed subdivision will not conflict with nearby agricultural operations (e.g., perimeter fencing, strategies to control wildlife populations and prevent wildlife displacement or attraction, restrictive covenants pertaining to domestic pets, etc.)?

## ***#2. Effect of proposed subdivision on agricultural water user facilities***

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- Are there irrigation ditches, canal, and other water user facilities (and associated easements) on this land? If so, have affected water users been notified of the proposed subdivision, and have they expressed any concern about its effect on their facilities? Are the easements adequate to protect water user facilities and allow for routine maintenance?
- Will water rights stay with the land proposed for subdivision? If so, how will distribution of the subdivision water be managed?

## ***#3. Effect of proposed subdivision on the natural environment***

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- *Surface water quality.* Does the proposed subdivision contain or lie adjacent to a water body? If so, is it designed to prevent erosion or other potential surface water quality problems?
- *Groundwater quality.* Do soil characteristics indicate the land may be vulnerable to groundwater pollution from development? If so, how is the proposed subdivision designed to minimize the potential for groundwater pollution?
- *Soil erosion potential.* Are soils on the land considered erodible, according to the Madison County Soil Survey and on-site inspection? Is the proposed subdivision designed to avoid or minimize construction on the more erodible soils? If not, what measures are proposed to prevent erosion?
- *Surface water run-off.* Is the proposed subdivision designed to avoid or minimize drainage problems? Has a grading and drainage plan been prepared to prevent potential drainage problems?
- *Vegetative health.* Is the land located in an area where threatened and/or endangered plant species are known to exist? If so, what mitigation measures are proposed to protect the species? Is the proposed subdivision designed to protect natural vegetation and limit road length, so as to prevent the spread of noxious weeds? What is the noxious weed condition of the land? Has the subdivider begun the process of preparing a weed management plan for review and approval by the Madison County Weed Board?
- *Air quality.* Does this proposed subdivision have the potential to degrade neighborhood air quality? If so, what mitigation measures are proposed to protect air quality?

- *Riparian areas, wetlands, flood-prone areas.* Do soils, vegetation, and Madison County flood-prone area maps indicate that the land includes any of these types of areas? If so, is the proposed subdivision designed to avoid construction (buildings and/or roads) in these areas? If not, have the necessary permits been applied for?
- *Natural topography.* Does the contour map identify areas of steep slope (25% or greater)? If so, is the proposed subdivision designed to avoid these steep slopes? Will construction of the subdivision reasonably maintain the natural topographic features of the land?
- *Open landscape, scenic beauty.* Is the proposed subdivision designed to conserve land by clustering homesites and maintaining significant open space? Is it designed to avoid ridgetops and visual encroachment into river corridors? Is it designed to conserve any views and vistas which are identified in an adopted land use plan?

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#### **#4 and #5. *Effect of proposed subdivision on wildlife and wildlife habitat***

- What types of wildlife are found (or likely to be found) in the habitat where this proposed subdivision is located? Consider both game species and non-game species of animals, birds, reptiles, amphibians, and fish. Consider both permanent and seasonal wildlife populations.
- Is the proposed subdivision located in big game winter range, an area of elk calving, and/or a wildlife migration corridor?
- Is the proposed subdivision located in a wildlife breeding area?
- Is the proposed subdivision located in habitat which supports threatened and/or endangered species?
- Is the proposed subdivision located in or adjacent to an area considered by wildlife specialists to be rich in wildlife resources?
- If the proposed subdivision is located in an area considered rich in wildlife resources, is the subdivision designed to minimize negative impacts on the wildlife? Was WildPlanner used to evaluate the subdivision's design for impacts on wildlife and wildlife habitat?
  - Development design measures could include clustering, reduced number of lots, buffer zones, access or use limitations, conservation easements, restrictive covenants, wildlife habitat enhancement projects, and wildlife habitat replacement areas.
  - Negative impacts could include wildlife harassment, displacement, endangerment, and either population loss or uncontrolled population increase.

- If the proposed subdivision is located adjacent to an area rich in wildlife resources, what measures are proposed to protect the adjacent habitat and wildlife population from being negatively impacted by the development? Was WildPlanner used to evaluate the subdivision's design for impacts on wildlife and wildlife habitat?
- Is the proposed subdivision likely to put the immediate area close to, at, or over the limits of being able to sustain existing wildlife populations?
- Is the proposed subdivision likely to displace wildlife in a way that will create problems for adjacent landowners?

#### ***#6. Effect of proposed subdivision on local services***

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- Will the proposed subdivision connect to existing community water and sewer systems? If so, can these existing systems handle the additional demand?
- How much additional traffic will the proposed subdivision generate? Can local roads/bridges handle the additional load on a year-round basis? If not, what capital improvements will be necessary?
- Is the proposed subdivision likely to put local services close to, at, or over their limits of service capability?
- At full build-out, what will the proposed subdivision require of local law enforcement, fire district, quick response unit, ambulance service, and school district (Estimate in terms of annual cost, increased demand, or other measure)? How does this compare with the local services demanded of the current land uses?
- At full build-out, what will the proposed subdivision generate in annual property tax revenues (using current dollars)? How does this compare with the property tax revenues being paid currently?
- If the proposed subdivision appears likely to generate insufficient property taxes to cover the local services it will require, has the applicant agreed to make any payment towards bridging the gap?
- Will this proposed subdivision add to the County's affordable housing stock ("affordable", as defined by the U.S. Dept. of Housing and Urban Development)?
- Will this proposed subdivision have adequate utility service (power, telephone, solid waste disposal)?

#### ***#7. Effect of proposed subdivision on public health and safety***

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- Do well logs from nearby wells demonstrate a clean and adequate water supply in the area (Well logs should pertain to nearby lands which are comparable in

elevation, soil type, and topography to the land proposed for subdivision)? If there are no nearby well logs available, what information has been provided to indicate adequacy of the water supply? Have any test wells been drilled on-site and been found to produce water in accordance with state standards?

- Is the proposed subdivision located in an area of natural hazard (e.g., flooding, earthquake zone, steep slopes/unstable soils/slides, high water table, high fire hazard or designated wildland/urban interface area, habitat for potentially dangerous wildlife such as bears and mountain lions)? If so, is the subdivision designed to eliminate or overcome the hazard?
- Is the proposed subdivision located in an area of manmade hazard (e.g., high voltage line, high pressure gas line, shooting range or public hunting grounds, airport, heavy industrial activity, heavy traffic volume, unmaintained/seasonal public road, polluted air or water supply)? Will the proposed subdivision attract potentially dangerous wildlife such as bears and mountain lions? If so, is the subdivision designed to mitigate any such hazards?
- What is the proposed subdivision's fire risk rating? What is the fire district's Insurance Service Office rating? What fire protection measures will be taken as a part of the subdivision proposal, to maintain a low risk?
- What is the estimated response time (under good weather conditions) of various emergency services (fire protection, law enforcement, ambulance service, quick response unit) to the site? In the view of the emergency service providers, are these response times adequate to provide reasonable public health and safety protection?
- Does the proposed subdivision itself include any activity or facility which could potentially endanger the public (e.g., commercial fuel storage tank, airport activity, irrigation canal, ponds)? If so, what measures will be taken to reduce, eliminate, or overcome the hazard?

**#8. Effect of proposed subdivision on other resources in the County** ["Resources" are those County land and water-based assets which support a significant portion of the local economy]. *Note: Effect on agricultural resources, including timber, is covered under Public Interest Criterion #1.*

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- Will the proposed subdivision impact the utilization of the County's mineral resources? Does the subdivider propose mitigating measures to reduce any potential negative impacts?
- Will the proposed subdivision impact the outdoor recreation, tourism, scenic, cultural and historic resources of the County? Does the subdivider propose mitigating measures to reduce any potential negative impacts?
- Is the proposed subdivision located on land that was previously publicly owned and then purchased or traded from a public land management agency?

- Overall, how is the proposed subdivision likely to affect the County's resource base? Is it likely to cause conflicts between resource users? What are its long-run implications, in terms of cumulative impacts?

#### **#9. Effect of proposed subdivision on the County's economy.**

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- Will the proposed subdivision help to strengthen the major sectors of our local economy (e.g., agriculture, forestry, mining, recreation and tourism, retirement-related services, entrepreneurial enterprises, and construction activity)?
- Will the proposed subdivision help to diversify the economic base?
- Will the proposed subdivision utilize and protect the resources which support the major economic sectors? *Note: This question is closely tied to Public Interest Criterion #8.*
- Will the proposed subdivision support the economic viability of family farms and ranches? *Note: This question is closely tied to Public Interest Criterion #1.*
- Will the proposed subdivision promote new business and industry which are compatible with the major economic sectors and do not put a financial strain on public services?
- Will the proposed subdivision help to expand the opportunities for year-round employment?
- How will the proposed subdivision affect the land's contribution to the local economy? *Note: Answers to this question will be used to develop a database of countywide changes in the utilization and economic productivity of land in Madison County.*
- Overall, what economic impact is the proposed subdivision likely to have in the short-term? The long-term?

#### **#10. Effect of proposed subdivision on public services provided by other entities in the County.**

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- Will the proposed subdivision raise the cost of services being provided by other entities (e.g., property owners association, road maintenance district)?
- Will the proposed subdivision have other impacts on the services being provided by other entities?

## PUBLIC INTEREST CRITERIA -- SUMMARY EVALUATION

*Note: A proposed subdivision may have both positive and negative effects on any one of these criteria.*

Potential Effects of Proposed Subdivision	Positive	Neutral	Negative	Comments
<b>Public Interest Criteria</b>				
#1. Effect on agriculture.				
#2. Effect on agricultural water user facilities.				
#3. Effect on natural environment.				
#4 & #5. Effect on wildlife and wildlife habitat.				
#6. Effect on local services.				
#7. Effect on public health and safety.				
#8. Effect on other resources in the county.				
#9. Effect on County's economy.				
#10. Effect on public services provided by other entities in the county.				

# APPENDIX 11 SUBDIVISION APPLICATION COVER SHEET & FORM

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Name of Proposed Subdivision. \_\_\_\_\_

Date of Pre-Application Meeting(s).  
\_\_\_\_\_

Date of Overall Development Plan Approval by the Board of Madison County  
Commissioners (If applicable). \_\_\_\_\_

## Contents of Subdivision Application Package.

- \_\_\_\_\_ [If applicable] Overall Development Plan Information.
- \_\_\_\_\_ Preliminary Plat (or Plan).
- \_\_\_\_\_ PART I of the Subdivision Joint Application Form (See Appendix 12).
- \_\_\_\_\_ PART II materials of the Subdivision Joint Application Form (See  
Appendix 12).
- \_\_\_\_\_ [If applicable] Environmental Assessment Materials (See PART III of  
Appendix 12 and Appendix 10).
- \_\_\_\_\_ Additional Supplementary Materials.
- \_\_\_\_\_ Additional Supplementary Materials if proposed subdivision is a planned  
unit development (PUD).
- \_\_\_\_\_ Preliminary Plat Checklist (See Appendix 9).
- \_\_\_\_\_ Subdivision review fee (See Appendix 4).
- \_\_\_\_\_ Any request for variance, along with variance review fee (See Appendix  
30).

## **Note:**

*Pursuant to the Madison County Subdivision Regulations, the Board of Madison County Commissioners may revoke a subdivision approval if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate. Therefore, please complete the application package accurately and provide all information requested.*

# APPENDIX 12 JOINT APPLICATION

## MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY/ LOCAL GOVERNMENT JOINT APPLICATION FORM

### **PART I. GENERAL DESCRIPTION AND INFORMATION (required for all subdivisions)**

1. Name of proposed development \_\_\_\_\_

2. Location: City and/or county \_\_\_\_\_  
Legal description: \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 of Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

3. Is concurrent review by local governing body and DEQ requested? Yes \_\_\_\_\_ No \_\_\_\_\_

4. Type of water supply system  
\_\_\_\_\_ Individual well  
\_\_\_\_\_ Individual cistern  
\_\_\_\_\_ Individual surface water supply or spring  
\_\_\_\_\_ Shared well (2 connections)  
\_\_\_\_\_ Multiple-user water supply system (3-14 connections and fewer than 25 people)  
\_\_\_\_\_ Service connection to multiple-user system  
\_\_\_\_\_ Service connection to public system  
\_\_\_\_\_ Extension of public main  
\_\_\_\_\_ New public system (15 or more connections or serving 25 or more people)

5. Type of wastewater treatment system  
\_\_\_\_\_ Individual wastewater treatment system  
\_\_\_\_\_ Number of bedrooms (3 bedrooms will be used if unknown)  
\_\_\_\_\_ Shared wastewater treatment system (2 connections)  
\_\_\_\_\_ Multiple-user system (3-14 connections and fewer than 25 people)  
\_\_\_\_\_ Service connection to multiple-user system  
\_\_\_\_\_ Service connection to public system  
\_\_\_\_\_ Extension of public main  
\_\_\_\_\_ New public system (15 or more connections or serving 25 or more people)

6. Name of solid waste (garbage) disposal site  
\_\_\_\_\_

7. Nondegradation  
Yes \_\_\_\_\_ No \_\_\_\_\_ Is information included which substantiates that there will be no degradation  
of state waters or that degradation will be nonsignificant?  
Yes \_\_\_\_\_ No \_\_\_\_\_ If not, have you enclosed an Application to Degrade?

8. Descriptive Data  
\_\_\_\_\_ Number of lots or rental spaces  
\_\_\_\_\_ Total acreage in lots being reviewed  
\_\_\_\_\_ Total acreage in streets or roads  
\_\_\_\_\_ Total acreage in parks, open space, and/or common facilities  
\_\_\_\_\_ Total gross acreage of subdivision  
\_\_\_\_\_ Minimum size of lots or spaces  
\_\_\_\_\_ Maximum size of lots or spaces

9. Indicate the proposed use(s) and number of lots or spaces in each.  
\_\_\_\_\_ Residential, single family  
\_\_\_\_\_ Residential, multiple family Number of units \_\_\_\_\_  
\_\_\_\_\_ Type of multiple family structure (e.g. duplex) \_\_\_\_\_ Number of units \_\_\_\_\_

\_\_\_\_\_ Planned unit development Number of units \_\_\_\_\_  
\_\_\_\_\_ Condominium Number of units \_\_\_\_\_  
\_\_\_\_\_ Mobile home park Number of units \_\_\_\_\_  
\_\_\_\_\_ Recreational vehicle park Number of units \_\_\_\_\_  
\_\_\_\_\_ Commercial or industrial  
\_\_\_\_\_ Other (please describe) \_\_\_\_\_

10. Provide the following information regarding the development.

Current land use \_\_\_\_\_  
Depth to ground water at the time of year when water table is nearest to the natural ground surface within the drainfield area \_\_\_\_\_  
Depth to bedrock or other impervious material in the drainfield area \_\_\_\_\_  
Existing zoning or other regulations \_\_\_\_\_

11. Include the following attachments, if applicable.

Yes \_\_\_\_\_ NA \_\_\_\_\_ An overall development plan indicating the intent for the development of the remainder of the tract, if a tract of land is to be subdivided in phases.  
Yes \_\_\_\_\_ NA \_\_\_\_\_ Drafts of any covenants and restrictions to be included in deeds or contracts for sale.  
Yes \_\_\_\_\_ NA \_\_\_\_\_ Drafts of homeowners' association bylaws and articles of incorporation, if applicable.  
(Submitting a draft copy of a homeowners' association bylaws and articles of incorporation is adequate for DEQ to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DEQ can issue final approval.)

I understand that a person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the reviewing authority under the Sanitation in Subdivisions Act has issued a certificate of subdivision approval indicating that the subdivision is not subject to sanitary restriction, unless the subdivision is exempt from the Sanitation in Subdivisions Act under 76-4-125, MCA. I understand that a person may not construct or use a facility that deviates from the certificate of subdivision approval until the reviewing authority has approved the deviation.

I designate \_\_\_\_\_ as my representative for purposes of this application.

**Designated representative, if any (e.g., engineer, surveyor)**

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Address: \_\_\_\_\_  
Company, Street or P.O. Box, City, State, Zip Code

**Owner Name:**

\_\_\_\_\_  
Signature of owner Print name of owner

Address: \_\_\_\_\_  
Street or P.O. Box, City, State, Zip Code

Date: \_\_\_\_\_ Phone: \_\_\_\_\_

**The statement must be signed by the owner of the land proposed for subdivision or the responsible officer of the corporation offering the same for sale. If the landowner or subdivider is a limited partnership (L.P.) or limited liability corporation (L.L.C.), the names of ALL principals must be listed.**

**Notice:** The statutory time frame for each review is 60 days. Resubmittal of denied or incomplete applications restarts the time frame. The estimated time for the DEQ to act on a complete subdivision application is 10 days for subdivisions reviewed by a local department of health under contract to the DEQ. Local health departments review subdivisions within 50 days of receipt of a complete application. During non-peak times, a review may take 25 to 45 days. For peak times, the review may take 45 to 60 days.

**PART II                    REQUIRED INFORMATION FOR APPROVAL OF SUBDIVISIONS UNDER  
SANITATION IN SUBDIVISIONS LAWS (e.g., parcels less than 20 acres, trailer  
courts, RV parks, condominiums)**

All applications must include the information required in ARM 17.36.101-805 and the appropriate circulars. In order to facilitate review, the application should be organized in the same manner as this application form and follow closely the submittal requirements in the rules and circulars.

**A.            Physical Conditions**

Provide the following attachments.

1. A vicinity map showing the location of the proposed subdivision in relation to the nearest town, highway(s).
2. Soils survey map and most recent interpretations of soil suitability for the proposed land uses.
3. Topographic map of the development with contour intervals meeting the preliminary plat requirements of the local subdivision regulations.
4. A copy of a preliminary plat\* (a minor subdivision plat if applicable) prepared in accordance with local subdivision regulations, or a final plat, show the location of:
  - a. Any rock outcroppings.
  - b. Any areas subject to flood hazard or, if available, 100 year floodplain studies. (The local floodplain administrator or the Floodplain Management Section of the Water Resources Division of the Department of Natural Resources and Conservation may be contracted for assistance in determining flood hazard locations.)
  - c. Any natural water systems such as streams, rivers, intermittent streams, lakes or wetlands (also indicate the names and sizes of each).
  - d. Any man-made water systems such as wells, ponds, canals, ditches, aqueducts, reservoirs and irrigation systems (also indicate the names, sizes and present use of each).
  - e. Any existing or proposed utilities located within or adjacent to the subdivision, including electrical power, natural gas, telephone service, and water and sewer pipelines or facilities.

\*Submit a preliminary plat or certificate of survey with complete and accurate legal description adequate for DEQ to initiate and complete its review of the subdivision.

**B. Water Supply**

1. Where an individual water supply system is proposed or existing for each parcel

- a. For a proposed system, provide all information required in ARM 17.36.328 – 336. Indicate the distance to the nearest public water system.
- b. If an existing system will be used, provide all information required in ARM 17.36.335.
- c. Attach four copies of the lot layout showing the proposed or existing location of each water supply source (spring, well or cistern) and indicating the distance to existing or proposed wastewater treatment systems.

2. Where a multiple user water system is proposed or existing

- a. If an existing system will be used:
  - 1) Identify the system and the person, firm or agency responsible for its operation and maintenance.
  - 2) Indicate the system's capacity to handle additional use and its distance from the development.
  - 3) Provide evidence that permission to connect has been granted.
  - 4) Provide three copies of the following attachments:
    - a) Map or plat showing location, sizes, and depth of any existing water supply lines and facilities that may directly serve parcels within the proposed development.
    - b) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.335 and DEQ-3.

b. If a new system will be used:

- 1) Indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
- 2) Provide all information required in ARM 17.36.330 - 336 and DEQ-3.

3. Where a public water system is proposed or existing

a. If an existing system will be used:

- 1) Identify the system and the person, firm or agency responsible for its operation and maintenance.
- 2) Provide evidence that the system is approved by DEQ and is in compliance with the regulations.
- 3) Provide evidence that the managing entity has authorized the connections, the system has adequate capacity to meet the needs of the subdivision, the system is in compliance with department regulations, and the appropriate water rights exist or have been applied for the connections.
- 4) Provide three copies of the following as attachments.
  - a) A map or plat showing the location, sizes and depth of any existing water lines and facilities that will directly serve parcels within the proposed development.
  - b) Plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328 - 330 and DEQ-1 or DEQ-3.

b. If a new system will be used:

- 1) Indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
- 2) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328 - 330 and DEQ-1 or DEQ-3.

## **C. Wastewater Treatment**

1. Where individual wastewater treatment systems are proposed for each parcel:

- a. Indicate the distance to the nearest public wastewater treatment system.
- b. Provide all information required in ARM 17.36.320 - 345 and in DEQ-4.

2. For a proposed multiple user wastewater treatment system:

a. Where an existing system is to be used:

- 1) Identify the system and the person, firm or agency responsible for its operation and maintenance.
- 2) Indicate the system's capacity to handle additional use and its distance from the development.
- 3) Provide evidence that permission to connect has been granted.
- 4) Provide two copies of the following attachments.
  - a) A map or plat showing the location, sizes and depth of any existing sewer lines and facilities that will directly serve parcels within the proposed development.
  - b) Provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.320 - 345 and DEQ-4.

b. Where a new system is proposed:

- 1) Indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
- 2) Provide all information required in ARM 17.36.320 - 326 and DEQ-4.

3. For a proposed public wastewater treatment system:

a. Where an existing system is to be used:

- 1) identify the system and the person, firm or agency responsible for its operation and maintenance.

- 2) provide evidence that the system is approved by DEQ and is in compliance with the regulations.
- 3) provide evidence that the managing entity has authorized the connections, the system has adequate capacity to meet the needs of the subdivision, and the system is in compliance with department regulations.
- 4) provide three copies of the following as attachments:
  - a) a map or plat showing the location, sizes and depth of any existing sewer lines and facilities that will directly serve parcels within the proposed development.
  - b) plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.328 and DEQ-2 or DEQ-4.
- b. Where a new system is proposed:
  - 1) indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
  - 2) provide plans and specifications for all proposed extensions and additional lines and facilities as required by ARM 17.36.320 - 326 and DEQ-2 or DEQ-4 (also see ARM 17.38.101).

#### **D. Solid Waste**

1. Describe the proposed method of collecting and disposing of solid waste.
2. Indicate the name and location of the department-licensed or appropriate out-of-state solid waste disposal site where solid waste will be disposed in accordance with ARM 17.36.309.

#### **E. Drainage**

1. Streets, roads, and unvegetated areas.
  - a. Describe measures for disposing of storm run-off from streets, roads, parking lots, and other unvegetated areas within the subdivision or onto adjacent property.
  - b. Indicate type of road surface proposed.
  - c. Describe facilities for stream or drainage crossing (e.g., culverts, bridges).
  - d. Describe how surface run-off will be drained or channeled from parcels.
  - e. Indicate if storm run-off will enter state waters and describe any proposed treatment measures. (A DEQ storm-water discharge permit may be required)
  - f. Describe any existing or proposed streambank or shoreline alteration, any proposed construction or modification of lakebeds or stream channels. Provide information on location, extent, type and purpose of alternation.
  - g. Provide storm drainage plans and specifications as required by ARM 17.36.310 and DEQ-8.

#### **F. Other Permits That May Be Necessary**

##### **1. WATER USE PERMIT (WATER RIGHTS)**

The Montana Water Law requires new water developments (after July 1, 1973) to be filed with the Department of Natural Resources and Conservation to receive a water right. For ground water developments, wells and developed springs, the amount of water to be used will determine which form to file with the department.

**Form 602 – Notice of Completion of Ground Water Development:** This form is to be filed when the ground water development is a well, developed spring or a ground water pit. The amount of water to be used cannot exceed 35 gallons per minute or 10 acre-feet per year. The form is to be filed within 60 days after the well or spring development is completed and the water has been put to the intended beneficial use. Do not file until the well is hooked up and being used.

**Form 600 – Application for Beneficial Water Use Permit:** When the ground water development is a well, developed spring or ground water pit and the intended use will be over 35 gallons per minute and 10 acre-feet per year, a water use permit must be issued before water can be appropriated. A correct and complete application with the criteria supplement and filing fee must be filed with the Department.

Forms are available at the Water Resources Regional Office at the following addresses:

**Helena:** Water Resources Regional Office, 1424 9th Avenue, PO Box 201601, Helena, MT 59620-1601, (406) 444-6999, or the regional office in your area,

**Billings:** Water Resources Regional Office, Airport Industrial Park, 1371 Rimtop Dr., Billings, MT, 59105-1978, (406) 247-4415

**Bozeman:** Water Resources Regional Office, 151 Evergreen Dr., Suite C, Bozeman, MT 59715, (406) 586-3136

**Glasgow:** Water Resources Regional Office, 222 6th St South, Glasgow, MT 59230, (406) 228-2561

**Havre:** Water Resources Regional Office, 210 6th Ave., Havre, MT 59501, (406) 265-5516

**Kalispell:** Water Resources Regional Office, 109 Cooperative Way, Suite 110, Kalispell, MT 59901, (406) 752-2288

**Lewistown:** Water Resources Regional Office, 613 NE Main St., Suite E, Lewistown, MT 59457, (406) 538-7459

**Missoula:** Water Resources Regional Office, Town & Country Shopping Center, 1610 S. Third St. West, Suite 103, Missoula, MT 59806, (406) 721-4284

2. For a complete listing of environmental permits required by the state, please reference the Montana Index of Environmental Permits from the Legislature Office of Environmental Quality (LEPO) at (406) 444-3742 or visit the **LEPO Web site:**

[http://www.leg.state.mt.us/css/publications/lepo/permit\\_index/permit\\_tofc.asp](http://www.leg.state.mt.us/css/publications/lepo/permit_index/permit_tofc.asp). In addition, there may be other permits required by the federal government or local government agencies.

\_\_\_ Montana Department of Environmental Quality (DEQ), Water Quality web site ([deq.state.mt.us/wqinfo](http://deq.state.mt.us/wqinfo))

\_\_\_ MPDES Wastewater Discharge - All discharges to surface water, including those related to construction dewatering. Contact DEQ, Water Protection Bureau (406) 444-3080.

\_\_\_ Storm Water Discharge - Construction activity greater than 1 acre disturbance. Contact DEQ, Water Protection Bureau (406) 444-3080.

\_\_\_ MGWPCS Discharge - All construction and/or operation of wastewater impoundments or conveyances which may cause pollution of ground water. Also, includes land application of wastewater on a case-by-case basis. Contact DEQ, Water Protection Bureau (406) 444-3080.

\_\_\_ 318 Authorization - Any activity in any state water that will cause unavoidable short-term violations of water quality standards. Contact DEQ, Water Protection Bureau (406) 444-3080.

\_\_\_ 310 Permit/SPA (124) - Any activity that physically alters or modifies the bed or banks of a stream. Contact the local Conservation District.

\_\_\_ 404 Permit - Any activity resulting in the discharge or placement of dredged or fill material into waters of the U.S., including wetlands. Contact U.S. Army Corp of Engineers at (406) 441-1375.

\_\_\_ Montana Land-Use License or Navigable Waters Easement -The construction, placement, or modification of a structure or improvement on land below the low water mark of navigable streams. Contact DNRC (406) 444-2074.

- \_\_\_ Water Right Permit - Required before constructing new or additional diversion, withdrawal, impoundment, or distribution works for appropriation of ground water or surface water. Contact DNRC (406) 444-6614.
- \_\_\_ Lakeshore Protection Act - Any project in or near a body of water within a county's jurisdictional area. Contact County Government Offices.
- \_\_\_ Public Water Supply - New construction, alteration, extension or operation of a public water supply or non-State Revolving Fund (SRF) public sewage systems requires approval from the Department of Environmental Quality. Contact DEQ, Public Water and Subdivisions Review Bureau (406) 444-4400.
- \_\_\_ Shoreline Protection - Any work in, over, or near any stream, river, lake, or wetland on the Flathead Reservation. Contact the Shoreline Protection Office at (406) 883-2888 or (406) 675-2700 ext. 7201.
- \_\_\_ UST Permits - Activities involving any type of work related to underground storage tanks (petroleum and hazardous substances). Contact DEQ, Technical Services Bureau (406) 444-1420.
- \_\_\_ RW-20 Permit - A permit is required when work is to be done within a Montana Department of Transportation (MDT) right of way. Contact the local MDT District Office.
- \_\_\_ Floodplain Development Permit - Anyone planning new construction within a designated 100-year floodplain. Contact DNRC, Water Operation Bureau, Floodplain Management, (406) 444-0860 or local Floodplain Administrator.

### **PART III INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE SUBDIVISION AND PLATTING ACT**

Information specified in this Part must be provided in addition to that required in Parts I and II of this application form, when the preparation of an environmental assessment is required by the Montana Subdivision and Platting Act.

#### **A. Geology**

1. Locate on a copy of the preliminary plat, or on a plat overlay, any known hazards affecting the development that could result in property damage or personal injury due to:
  - a. Falls, slides or slumps — soil, rock, mud, snow; or
  - b. Seismic activity.
2. Describe any proposed measures to prevent or reduce the danger of property damage or personal injury from any of these hazards.
3. Identify any geological conditions that might affect development, such as areas of bedrock, unsuitable soils, or high ground water. Describe any measures proposed to minimize the problems presented by the identified conditions.

#### **B. Vegetation**

1. Locate on a copy of the preliminary plat, or on a plat overlay, the location of the major vegetation types such as marsh, grassland, shrub, and forest.
2. Describe measures to be taken to protect trees and vegetative cover (e.g., design and location of lots, roads, and open spaces).
3. Identify areas containing noxious weed growth. Describe proposed means of weed control, especially to prevent weed growth on areas disturbed by construction.

#### **C. Wildlife**

1. Identify any major species of fish and wildlife use in the area to be affected by the proposed subdivision.
2. Locate on a copy of the preliminary plat, or on a plat overlay, any known important wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, and wetlands.
3. Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g., keeping buildings and roads away from shorelines or setting aside marshland as undeveloped open space).

#### **D. Historical Features**

1. Describe and locate on a copy of the preliminary plat, or on a plat overlay, any known or possible historic, archaeological, or cultural sites that may be affected by the proposed subdivision.
2. Describe any plans to protect such sites or properties.

## **E. Roads**

1. Describe any required construction of new public or private access roads or substantial improvements to existing public or private access roads.
2. Describe the proposed closure or modification of any existing roads.
3. If any of the individual lots is accessed directly from an arterial street or road, explain why access was not provided by means of a frontage road or a road within the subdivision.
4. Indicate who will pay the costs of installing and maintaining dedicated or private roadways.
  - a. Estimate how much daily traffic the subdivision, when fully developed, will generate on existing streets and arterials.
  - b. Discuss the capability of existing and proposed roads to safely accommodate this increased traffic.
  - c. Describe any increased maintenance problems and cost that will be caused by this increase in volume.
5. Describe any potential year-round accessibility concerns for conventional automobiles over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision

Identify the owners of any private property over which access to the subdivision will be provided and indicate whether easements for access have been obtained from those landowners.

## **F. Utilities**

1. Identify the utility companies involved in providing electrical power, natural gas, and telephone service. Indicate whether utility lines will be placed underground.
2. Identify on the preliminary plat or overlay the locations of any needed utility easements [as required by 76-3-608(3)(c), MCA].
3. Indicate whether the preliminary plat has been submitted to affected utilities for review.
4. Estimate the completion date of each utility installation.

## **G. Emergency Services**

1. Describe the emergency services available to the residents of the proposed subdivision, including number of personnel and number of vehicles or type of facilities and road distance to facilities for:
  - a. Fire protection – Indicate whether the proposed subdivision is in an urban or rural fire district. If not, describe plans to form or extend an existing fire district, or describe other fire protection procedures. Where applicable, provide information regarding subdivisions planned in areas of high fire hazards.
  - b. Police protection.
  - c. Ambulance service.
  - d. Medical services.
2. Indicate whether the needs of the proposed subdivision for each of the above services will be met by present personnel and facilities.
  - a. If not, describe the additional expenses necessary to make these services adequate.
  - b. Explain who will pay for the necessary improvements.

## **H. Schools**

1. Describe the available educational facilities that would serve this subdivision and the road distance to each.
2. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the appropriate school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.

## **I. Land Use**

1. Describe land uses on lands adjacent to the subdivision.
2. Describe any comprehensive plan or other land use regulations covering the area proposed for subdivision or adjacent land. If the subdivision is located near an incorporated city or town, describe any plans for annexation.
3. Where public lands are adjacent to or near the proposed development, describe the present and anticipated uses of those lands (e.g., grazing, logging, and recreation). Describe how the subdivision will affect access to any public lands.
4. Describe any health or safety hazards on or near the subdivision, such as mining activity, high-pressure gas lines, dilapidated structures, high-voltage power lines or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.
5. Describe any on-site or off-site uses creating a nuisance such as unpleasant odor, unusual noises, dust or smoke. Any such conditions should be accurately described and the origin and location of each identified.

## **J. Parks and Recreation Facilities**

Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision

## POSSIBLE SOURCES OF INFORMATION TO CONTACT WHEN COMPLETING THE FORM

### Local Agencies

City or County Health Department  
City Engineer or County Surveyor  
County Road Supervisor  
Conservation District  
County Extension Service  
Planning Board Staff  
Floodplain Administrator

School District  
Fire District or Department  
Police or Sheriff's Department  
Hospital or Ambulance Service  
Chamber of Commerce  
Telephone, Electrical Power, Gas, and  
Cable Companies

### State Agencies

#### Information

#### Location

Dept of Fish, Wildlife, and Parks (FWP)	Fisheries, vegetation and wildlife	Helena and regional offices
Dept of Environmental Quality (DEQ)	Water quality	Helena
Dept of Transportation	Access to state highways traffic data maps, aerial photographs	Helena
Dept of Natural Resources and Conservation (DNRC)	Surface and ground water, floodplains, well logs, water rights, fire hazards	Helena and regional offices
Bureau of Mines and Geology	Geology, ground water, water quality well logs, topographic maps	Butte and Billings

### Federal Agencies

#### Information

#### Location

Farm Service Agency	Aerial photographs	County offices
Bureau of Land Management	Vegetation, maps, topography	Billings and district offices
Forest Service	Topography, surface water, soil maps, vegetation, wildlife fire hazards, maps	Missoula regional, national forest and district offices
Geological Survey	Geology, surface and ground water, water quality, floodways, topographic maps	Helena
Natural Resources Conservation Service	Soils, surface water, flood hazards, erosion	Bozeman & County offices

# APPENDIX 13 DEQ SUBDIVISION CHECKLIST

Subdivision: \_\_\_\_\_ County: Madison

E.Q. Number provided by DEQ): \_\_\_\_\_

Please complete the checklist with your initials or N/A.

Initial or N/A			Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	County	DEQ			
			1. Have deviation or waiver requests been submitted with appropriate fee?	17.36.601	
			2. Is check included with correct fee?	17.36.103(1)(a)	
			3. Is application included with owner's signature/address/phone/date?	17.36.102(1)&(2)	
			4. Is legible copy of Preliminary Plat or COS included?	17.36.103(1)(n)	
			5. Is legal description included on the Preliminary Plat or COS?	17.36.103(1)(n)	
			6. Are all lots described on survey being reviewed and any exclusions clearly state on Preliminary Plat or COS?	17.36.103(1)(n), 17.36.605	
			7. Are state letters of approval included (DNRC, Groundwater discharge permit, public water, etc.)?	17.36.103	
			8. Is local health officer approval included?	17.36.102(3)&(6, 17.36.108(2)	
			9. Are Planning Board or County Commissioner comments included?	17.36.103(1)(o)	
			10. Is a clear copy of USGS or other topo map included to show ground slope of property?	17.36.103(1)(h), (SWTS) 17.36.310 (SW), 17.36.322 (SWTS siting)	
			11. Are 4 copies of lot layout included with the subdivision name on each?	17.36.103(1)(d), 17.36.104	
			12. Is all required information (e.g., scale, legend, north arrow, etc.) included on the lot layout?	17.36.103(1)(d), 17.36.104	
			13. Are locations of water and sewer mains shown?	17.36.103(1)(d), 17.36.104	
			14. Are on-site sewer systems designed in conformance with DEQ 4?	17.36.320	
			15. Is the slope given for drainfield areas?	17.36.103(1)(h), 17.36.322	
			16. Are drainfields orientated along land contours to meet depth requirements?	17.36.322, DEQ 4, Chap. 8	
			17. Are drainfield replacement areas shown?	17.36.104(2), Table 1	
			18. Are minimum setback requirements met?	17.36.323	

Initial or N/A			Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	County	DEQ			
			19. Is adequate test pit (8 ft. excavation) data provided?	17.36.103(1)(h), 17.36.325	
			20. Is SCS/NRCS soils data provided?	17.36.325(3)	
			21. Is information to verify depth to seasonal high ground water or bedrock provided?	17.36.103(1)(h), 17.36.106(2), 17.36.325(2)	
			22. If conducted, does perc test value(s) correspond to soil type?	17.36.103(1)(h)	
			23. Are wells, 100 ft. well isolation zone, mixing zones, and ground water flow direction (verified by wells or other documentation) shown?	17.36.103(1)(e), 17.30.501-518	
			24. Is adequate water supply substantiated?	17.36.103(1)(f), 17.36.330	
			25. Are water quality analyses (nitrate, specific conductivity, and bac-T (for existing wells) provided, along with well log and well location?	17.36.103(1)(f), 17.36.330, 17.36.335	
			26. Is existing well over 25 ft. in depth?	17.36.335, 16.36.331(1)(e)	
			27. Will surface water, spring or cistern system be disinfected and filtered?	17.36.336	
			28. Is nondegradation addressed and supporting data to determine background water quality, hydraulic conductivity and hydraulic gradient provided?	17.36.103(1)(j), 17.30.501-518, 17.30.715	
			29. Is nitrate level at end of mixing zone < 5 ppm (< 7.5 ppm, if level 2 provided), and phosphorous breakthrough > 50 years and trigger analysis for n and p addressed?	17.36.103(1)(j), 17.30.715	
			30. Are shared users agreements included for shared well, drainfields and/or easements?	17.36.103(1)(p), 17.36.326(3)	
			31. Is a copy of the local septic permit (if issued) for an existing septic system provided?	17.36.327	
			32. Is a septic pumper's report stating an existing septic tank has been pumped within the last 3 years provided?	17.36.327	
			33. Is evidence demonstrating proper hydraulic functioning of an existing septic system provided?	17.36.327	
			34. Are wells, drainfields and/or mixing zones within 100 ft. perimeter outside of subdivision boundaries shown?	17.36.103(1)(e), 17.30.501-518, 17.30.706	
			35. Is proposed subdivision within 500 feet of public water supply and/or sewer system?	17.36.328(1)	

Initial or N/A			Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	County	DEQ			
			36. Is authorized statement to connect to existing public water and/or sewer system and statement of adequate capacity provided?	17.36.103(1)(g), 17.36.328(2)(b)	
			37. Is existing public water system approved by DEQ and PWS # provided?	17.36.328(2)(b) & (c)	
			38. Do appropriate water rights exist for the public water connection?	17.36.328(2)(b)	
			39. If needed, are easements for water and/or sewer systems/lines shown?	17.36.103(1)(n) & (op	
			40. Are plans and specs (3 copies) stamped and signed by PE?	17.36.103(1)(b) & (c)	
			41. Is letter from owner stating "as-built" will be submitted included?	17.36.314	
			42. Are 100-year floodplain requirements met, and floodplains and drainages shown?	17.36.104, 17.36.106(2)(c), 17.36.324	
			43. Is solid waste disposal addressed?	17.36.103(1)(l), 17.36.309 (waste stored on-site_	
			44. Has storm water drainage been addressed?	17.36.103(j), 17.36.104(2), 17.36.310, DEQ 8	

Notes:

Applicant/Representative: Name \_\_\_\_\_ Signature \_\_\_\_\_ Date  
\_\_\_\_/\_\_\_\_/\_\_\_\_

County Reviewer: Name \_\_\_\_\_ Signature \_\_\_\_\_ Date  
\_\_\_\_/\_\_\_\_/\_\_\_\_

DEQ reviewer: Name \_\_\_\_\_ Signature \_\_\_\_\_ Date  
\_\_\_\_/\_\_\_\_/\_\_\_\_

Revised 9/14

# APPENDIX 14 MADISON COUNTY SANITARIAN CHECKLIST

- For parcels 20 acres or larger.
- For water supply, wastewater treatment, stormwater management, and solid waste disposal issues.

Subdivision:

Legal Description:

Owner's Name & Address:

Please complete the checklist with your initials or N/A.

Initial or N/A		Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	County			
		1. Have deviation or waiver requests been submitted with appropriate fee?	17.36.601	
		2. Is check included with correct fee?		
		3. Is application included with owner's signature/address/phone/date?		
		4. Is legible copy of Preliminary Plat or COS included?	17.36.103(1)(n)	
		5. Is legal description included on the Preliminary Plat or COS?	17.36.103(1)(n)	
		6. Are all lots described on survey being reviewed and any exclusions clearly state on Preliminary Plat or COS?	17.36.103(1)(n), 17.36.605	
		7. Are lots at least 20 acres in size or otherwise meet minimum lot size requirements?	17.36.340, 17.36.322(4)	
		8. Are state letters of approval included (DNRC, Groundwater discharge permit, public water, etc.)?	17.36.103	
		9. Is local health officer/sanitarian approval included?	17.36.102(3)&(6), 17.36.108(2)	
		10. Are Planning Board or County Commissioner comments included?	17.36.103(1)(o)	
		11. Is a clear copy of USGS or other topo map included to show ground slope of property?	17.36.103(1)(h), (SWTS) 17.36.310 (SW), 17.36.322 (SWTS siting)	
		12. Are 4 copies of lot layout included with the subdivision name on each?	17.36.103(1)(d), 17.36.104	
		13. Is all required information (e.g., scale, legend, north arrow, etc.) included on the lot layout?	17.36.103(1)(d), 17.36.104	

Initial or N/A		Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	County			
		14. Are locations of water and sewer mains shown?	17.36.103(1)(d), 17.36.104	
		15. Are on-site sewer systems designed in conformance with DEQ 4?	17.36.320	
		16. Is the slope given for drainfield areas?	17.36.103(1)(h), 17.36.322	
		17. Are drainfields orientated along land contours to meet depth requirements?	17.36.322, DEQ 4, Chap. 8	
		18. Are drainfield replacement areas shown?	17.36.104(2), Table 1	
		19. Are minimum setback requirements met?	17.36.323	
		20. Is adequate test pit (8 ft. excavation) data provided?	17.36.103(1)(h), 17.36.325	
		21. Is SCS/NRCS soils data provided?	17.36.325(3)	
		22. Is information to verify depth to seasonal high ground water or bedrock provided?	17.36.103(1)(h), 17.36.106(2), 17.36.325(2)	
		23. If conducted, does perc test value(s) correspond to soil type?	17.36.103(1)(h)	
		24. Are wells, 100 ft. well isolation zone, mixing zones, and ground water flow direction (verified by wells or other documentation) shown?	17.36.103(1)(e), 17.30.501-518	
		25. Is adequate water supply substantiated?	17.36.103(1)(f), 17.36.330	
		26. Are water quality analyses (nitrate, specific conductivity, and bac-T (for existing wells) provided, along with well log and well location?	17.36.103(1)(f), 17.36.330, 17.36.335	
		27. Is existing well over 25 ft. in depth?	17.36.335, 16.36.331(1)(e)	
		28. Will surface water, spring or cistern system be disinfected and filtered?	17.36.336	
		29. Is nondegradation addressed and supporting data to determine background water quality, hydraulic conductivity and hydraulic gradient provided?	17.36.103(1)(j), 17.30.501-518, 17.30.715	
		30. Is nitrate level at end of mixing zone < 5 ppm (< 7.5 ppm, if level 2 provided), and phosphorous breakthrough > 50 years and trigger analysis for n and p addressed?	17.36.103(1)(j), 17.30.715	
		31. Are shared users agreements included for shared well, drainfields and/or easements?	17.36.103(1)(p), 17.36.326(3)	
		32. Is a copy of the local septic permit (if issued) for an existing septic system provided?	17.36.327	
		33. Is a septic pumper's report stating an existing septic tank has been pumped within the last 3 years provided?	17.36.327	

Initial or N/A		Question	Refer to ARM 17.36 Subsections	Reviewer's Comments
Applicant or Rep	County			
		34. Is evidence demonstrating proper hydraulic functioning of an existing septic system provided?	17.36.327	
		35. Are wells, drainfields and/or mixing zones within 100 ft. perimeter outside of subdivision boundaries shown?	17.36.103(1)(e), 17.30.501-518, 17.30.706	
		36. Is proposed subdivision within 500 feet of public water supply and/or sewer system?	17.36.328(1)	
		37. Is authorized statement to connect to existing public water and/or sewer system and statement of adequate capacity provided?	17.36.103(1)(g), 17.36.328(2)(b)	
		38. Is existing public water system approved by DEQ and PWS # provided?	17.36.328(2)(b) & (c)	
		39. Do appropriate water rights exist for the public water connection?	17.36.328(2)(b)	
		40. If needed, are easements for water and/or sewer systems/lines shown?	17.36.103(1)(n) & (op	
		41. Are plans and specs (3 copies) stamped and signed by PE?	17.36.103(1)(b) & (c)	
		42. Is letter from owner stating "as-builts" will be submitted included?	17.36.314	
		43. Are 100-year floodplain requirements met, and floodplains and drainages shown?	17.36.104, 17.36.106(2)(c), 17.36.324	
		44. Is solid waste disposal addressed?	17.36.103(1)(l), 17.36.309 (waste stored on-site)	

Notes:

Applicant/Representative:

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

County Reviewer:

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

## APPENDIX 15 LAND STEWARDSHIP PLAN AND GUIDELINES

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The Madison County Growth Policy recommends that, “*wherever possible, new development should...include a land stewardship plan that addresses management responsibility for such things as noxious weed control, public access (where provided), wildlife, livestock grazing, other agricultural uses, recycling, and protection of water resources.*” The Community Wildfire Protection Plan adopted as part of the Growth Policy should be referred to for recommendations related to vegetative health and wildfire protection.

Submittal of a land stewardship plan is a requirement of the subdivision application package (or overall development plan, if required). The Land Stewardship Plan is intended to demonstrate that the subdivider has considered and, to the extent possible, provided for the long-term care and management of the land. The Plan does not have to be lengthy, but it should address at least the major points listed below. Resource management plans prepared by ranches for other purposes may contain all or most of the pertinent considerations.

- **Vegetative health.**

*In part, this item will be covered by the noxious weed management plan.*

*In part, this item will also be covered by best management practices for grazing and other agricultural uses (see below).*

*In addition, revegetation of disturbed ground and other landscaping requirements may be required or advisable. In such cases, native seed and plantings are encouraged.*

*Where a subdivision is proposed in or near the Wildland-Urban interface, address the measures to be taken to address Wildland Fuel Mitigation with the intent to reduce fuel loading and provide for continuous maintenance of the fuel load.*

Suggested contacts: County Extension Agent, County Weed Coordinator, County Emergency Services Director, Natural Resource Conservation Service, Local Conservation District, local fire district, local nurseries and seed/feed companies.

- **Public access.**

*Where a proposed subdivision will permit public access to recreational resources, what measures will be taken to minimize the potential for trespass, litter, and environmental damage?*

Suggested contacts: MT Dept. of Fish, Wildlife and Parks, County Sheriff.

- **Wildlife.**

*Where a subdivision is proposed in an area rich in wildlife resources, what measures will be taken to avoid habituating the wildlife, harassing the wildlife, obstructing wildlife migration patterns, unnecessarily attracting dangerous wildlife, and/or causing game damage on adjoining properties? Remember that building and road location, fencing options, garbage containment, pets, landscaping choices, hunting policies, etc. may all impact wildlife.*

Suggested contacts: MT Dept. of Fish, Wildlife and Parks, County Extension Agent, Natural Resources Conservation Service, Local Conservation District.

- **Livestock grazing.**

*Where a proposed subdivision will allow livestock grazing (this includes horses!), what measures will be taken to prevent overgrazing, provide adequate forage, and promote healthy vegetation? Where a proposed subdivision will prohibit livestock grazing on large tracts of land, how will the land be managed to prevent wildfire and promote healthy vegetation?*

Suggested contacts: Natural Resources Conservation Service, Local Conservation District, County Extension Agent.

- **Other agricultural uses.**

*Where a proposed subdivision will allow other agricultural uses, what measures will be taken to promote soil health and water conservation?*

Suggested contacts: Natural Resources Conservation Service, Local Conservation District, County Extension Agent.

- **Recycling.**

*What solid waste recycling practices will be promoted, and how?*

Suggested contact: County Sanitarian/Solid Waste Manager

- **Protection of water resources.**

*Where a proposed subdivision is located along a stream or lake, what measures will be taken to protect surface water, groundwater, floodplain, and riparian area resources?*

*In part, this item will be covered by sanitation and floodplain information.*

*In part, this item will also be covered by previous discussions of wildlife, livestock grazing, and other agricultural uses.*

Suggested contacts: Natural Resource Conservation Service, Local Conservation District or Watershed Council, County Extension Agent

## APPENDIX 16 REVIEWING FOR GROWTH POLICY COMPLIANCE

### EVALUATION CHECKLIST (for Overall Development Plans and Proposed Subdivisions)

Note: Mitigation scale is 0-5, from 0=not consistent to 5=highly consistent. N/A is not pertinent to the proposed subdivision.	Project Consistency														Comments on Consistency, Proposed/Potential Mitigation Measures
	As Proposed							With Additional Mitigation							
	0	1	2	3	4	5	N/A	0	1	2	3	4	5	N/A	
<b>GUIDING PRINCIPLES</b>															
#1. Locate new development close to existing services & communities.															
#2. Protect our river corridors.															
#3. Preserve our most productive agricultural lands.															
#4. New development should pay its own way.															
#5. Respect private property rights.															
<b>GOALS &amp; OBJECTIVES</b>															
<i>Land Use.</i> Use our land base to support a mix of activities...in ways that accommodate growth, minimize conflict among adjacent land uses, promote efficient use of land, protect public health and safety, and reflect the five Guiding Principles.															
<i>The Economy.</i> Strengthen the major sectors of our local economy, and diversify the economic base.															

Note: Mitigation scale is 0-5, from 0=not consistent to 5=highly consistent. N/A is not pertinent to the proposed subdivision.	Project Consistency														Comments on Consistency, Proposed/Potential Mitigation Measures
	As Proposed							With Additional Mitigation							
	0	1	2	3	4	5	N/A	0	1	2	3	4	5	N/A	
<i>The Environment.</i> Protect the quality of our air, groundwater, surface waters, soils, vegetation, fish and wildlife habitat, scenic views, cultural & historic resources.															
<i>Recreation.</i> Support a variety of recreational opportunities for both local residents and visitors.															
<i>Public Services.</i> Provide high-quality public services to local residents and visitors in safe, fair, and cost-effective ways.															
<i>Communication, Coordination, and Citizen Participation.</i> Promote an open, inclusive, and coordinated approach to planning for the future in Madison County.															
<b>LAND DEVELOPMENT POLICIES</b>															
#1. Subdivision should provide adequate water supply for domestic and fire-related purposes.															
#2. Surface water and groundwater quality should not be degraded.															
#3. Site should be reasonably accessible to emergency services.															

Note: Mitigation scale is 0-5, from 0=not consistent to 5=highly consistent. N/A is not pertinent to the proposed subdivision.	Project Consistency														Comments on Consistency, Proposed/Potential Mitigation Measures	
	As Proposed							With Additional Mitigation								
	0	1	2	3	4	5	N/A	0	1	2	3	4	5	N/A		
#4. Adequate legal and physical access should be provided.																
#5. Fire risk evaluation should include fire prevention specialist and local fire district. Fire risk rating should be low.																
#6. Subdivision should preserve productive ag lands, important wildlife habitat, riparian areas, or any other environmentally sensitive areas.																
#7. Subdivision should respect neighboring land uses.																
#8. Subdivision should preserve scenic views and vistas from public lands and rights-of-way.																
#9. Subdivision should retain traditional public access.																
#10. Subdivision should uphold the Right-to-Farm.																
#11. Large residential and mixed use subdivisions should contribute to a mix of housing opportunities and prices.																

Note: Mitigation scale is 0-5, from 0=not consistent to 5=highly consistent. N/A is not pertinent to the proposed subdivision.	Project Consistency														Comments on Consistency, Proposed/Potential Mitigation Measures
	As Proposed							With Additional Mitigation							
	0	1	2	3	4	5	N/A	0	1	2	3	4	5	N/A	
#12. Where agricultural land is being converted, subdivision should encourage the continuation of ag practices on the land.															
#13. Cumulative effects of the subdivision should be evaluated. [Note: Agency contacts should include a request for cumulative impact information.]															
#14. If the transfer of public land to private ownership is involved, sub-division should reflect the prevailing land use in the immediate area.															
#15. Municipal officials should be notified.															
#16. Local service districts should be notified.															
#17. Public land and resource managers should be notified.															
#18. Adjacent landowners and water users should be notified.															
#19. Land stewardship plan should be prepared.															
#20. Transportation and utility improvements should support and not negatively impact agriculture.															

Note: Mitigation scale is 0-5, from 0=not consistent to 5=highly consistent. N/A is not pertinent to the proposed subdivision.	Project Consistency														Comments on Consistency, Proposed/Potential Mitigation Measures
	As Proposed								With Additional Mitigation						
	0	1	2	3	4	5	N/A	0	1	2	3	4	5	N/A	
<b>MADISON VALLEY PLAN</b>															
<b>OTHER AREA/FACILITY PLANS</b>															
<b>OVERALL DEVELOPMENT PLAN</b>															

Conclusions:

1. As proposed, the project DOES / DOES NOT substantially comply with the Madison County Growth Policy; **OR**
2. Additional mitigation measures ARE / ARE NOT needed to bring the project into substantial compliance with the Growth Policy.

Evaluated by \_\_\_\_\_  
County Planner

Date \_\_\_\_\_

## APPENDIX 17    SAMPLE NOTIFICATION LETTER

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NOTE: After Subdivision Application is submitted and determined to be sufficient

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**[Date Mailed]**

TO:            Adjacent Property Owners  
                Lien Holders  
                Easement Holders  
                Potentially Affected Water Users  
                Potentially Affected Property Owner Associations  
                Review Agencies  
                Nearby Municipality

FROM:        **[Landowner name and contact information. Also, name and contact information for landowner's representative, if pertinent]**

RE:           **[Proposed Subdivision and Legal Description of Site]**

This is to notify you that the proposed **[name of subdivision]** has been submitted to Madison County and will be reviewed by the Madison County Planning Board as follows:

- **[day and date of meeting]**
- **[approximate meeting time]**
- **[meeting location]**

The subdivision application may be reviewed at the Planning Office or **[community]** Public Library. A vicinity map and project summary are enclosed.

Your comments to the Planning Board about the project are welcomed, either prior to or at the meeting. If you wish to write or call in your comments, please address them to: Madison County Planning Board, P.O. Box 278, Virginia City, MT 59755; phone (406) 843-5250, fax (406) 843-5229. Email address: [planb@madison.mt.gov](mailto:planb@madison.mt.gov)

Enclosures

cc: Madison County Planning Board

# APPENDIX 18 NOXIOUS WEED MANAGEMENT PLAN APPLICATION FORM

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## Madison County Weed Board

P.O. Box 278 • Virginia City, Montana 59755 • (406) 843-5594 • (406) 843-5252 fax

Enclosed, please find a "SUBDIVISION/LANDOWNER NOXIOUS WEED MANAGEMENT PLAN" for the Subdivider/landowner to fill out and return to us for review. The Weed Board will review the Plan at its next regular meeting, which is the third Tuesday of every month. Please feel free to make copies of these forms for future use.

When filing the Weed Management Plan, please pay attention to several parts of the Plan:

- a) **Item #II – "Noxious Weed Data". Weed Identification, Land Uses and Environmental and Safety Factors are all important considerations when making recommendation for control or management of all Noxious Weeds.**
- b) **Please include a map of the area in question. This is valuable in assisting with guidance or advice about a Weed problem and when making arrangements to view the property.**
- c) **Approval/Signature page. The Weed Board will not review or approve a Weed Management Plan unless it has a Notary approved signature of the Landowner or Representative.**

If the management plan is approved, a letter stating so and a copy of the plan will be sent to Subdivider/Landowner. A copy of the approval letter will be sent to the Board of Commissioners of Madison County, the Clerk and Recorder's Office and the Planning Board. The original plan and a copy of the approval letter will be kept on file in our Office.

If the management plan is not approved, the plan will be returned to the Subdivider/Landowner with an explanation of why and any suggestions of changes that may be needed to be in Compliance with the Montana/County Noxious Weed Act 7-22-21 MCA and the Madison County Weed Plan.

The Board requests that they or their representative be allowed to inspect the property for the presence of noxious weeds. If the management plan is filed during the winter months, then the inspection will be made when time and weather are conducive to developer or landowner in identifying noxious weeds that may be present, or identifying possible trouble spots that may arise with the construction of roads or homes.

The "WEED MANAGEMENT CLAUSE" that is enclosed is a document that we would like to have the buyer read and sign. This lets the future owners know that a weed management plan has been filed and also helps them become aware of laws pertaining to noxious weeds. We have found that having the "WEED MANAGEMENT CLAUSE" attached to the buy/sell agreement is the best way to accomplish this procedure.

Also enclosed is a copy of the "MADISON COUNTY SUBDIVISION REGULATIONS". You will notice that the Weed Board charges a deposit/fee for inspection and approval of Subdivisions. As item 3. states, **application shall not be accepted or approved unless accompanied by applicable fees.**

The Board wishes to inform you that the Montana/County Weed Control Act, Section 7-22-2110, does provide you the right to an Administrative Hearing-Appeal. Your first Hearing-Appeal would be with the Madison County Commissioners.

Should you have any questions or prefer to have the any questions or prefer to have the Weed Board assist with completion the Application, please feel free to contact me.

Sincerely,

Margie N. Edsall, Coordinator  
Madison County Weed Board

## Madison County Weed Board

P.O. Box 278 • Virginia City, Montana 59755 • (406) 843-5594 • (406) 843-5252 fax

### Noxious Weed Control Management Plan

Plan# \_\_\_\_\_

Date \_\_\_\_\_

#### I. Ownership and Location:

A. Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone#: \_\_\_\_\_

#### B. Location:

a. Legal Description: \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

C. A Map identifying or locating the Ownership must be included.

D. Subdivision Name: \_\_\_\_\_

#### II. Noxious Weed Data:

A. Types of Noxious Weeds: \_\_\_\_\_

\_\_\_\_\_

B. Acres of infestation by weed species and land use. (use data key-2nd pg.)

Location	Weed Species	Acres	Land Uses	Environmental & Safety Factors
Example:	S. knapweed	4	Residential	Trees/Garden/Creek

- 
1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
  4. \_\_\_\_\_
  5. \_\_\_\_\_

(If possible, please locate above infestations on map)

wm-004b

III. Control activities:

- A. Types of Control: (1) Chemical\_\_\_\_\_ (2) Biological\_\_\_\_\_ (3) Cultural\_\_\_\_\_ (4) Integrated\_\_\_\_\_ (5) Other\_\_\_\_\_
- B. Control Methods: (1) Handgun\_\_\_\_\_ (Ground Boom)\_\_\_\_\_ (3) Aerial Application\_\_\_\_\_ (4) Other\_\_\_\_\_
- C. Who will conduct the control activity (applicator):  
(1) Self\_\_\_\_\_ (2) Neighbor\_\_\_\_\_ (3) Commercial Applicator\_\_\_\_\_ (4) Other\_\_\_\_\_

IV. Other plans for present control: (Time of control, Herbicides used and application rates, monitoring, etc.)\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

V. Plans for future Noxious Weed Control: (Monitoring plans- vegetative transects, photo points, employee awareness. Herbicide use plans. Biological use plans, etc.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NOXIOUS WEED DATA KEY:

- |                           |                              |
|---------------------------|------------------------------|
| 1. Spotted Knapweed       | A. Cultivated Cropland       |
| 2. Diffuse Knapweed       | B. Cultivated Hayland        |
| 3. Russian Knapweed       | C. Irrigated Pasture (range) |
| 4. Leafy Spurge           | D. Native Rangelands         |
| 5. Canada Thistle         | E. Riparian Lands            |
| 6. Dalmation Toadflax     | F. Timber Lands              |
| 7. Field Bindweed         | G. Mining Lands              |
| 8. Whitetop (hoary cress) | H. Residential Site (rural)  |
| 9. St. Johnswort          | I. Residential Site (urban)  |
| 10. Dyer's Woad           | J. Commercial (rural)        |
| 11. Yellow Starthistle    | K. Commercial (Urban)        |
| 12. Common Crupina        | L. Recreation                |
| 13. Tansy Ragwort         | M. Non-use                   |
| 14. Rush Skeltonweed      |                              |
| 15. Common Tansy          |                              |
| 16. Houndstongue          |                              |
| 17. Musk Thistle          |                              |
| 18. Common Mullein        |                              |

**Note: All Weed Management Plans should be signed, dated, and notarized (see next page).**

**VI. Approval / Non-Approval: (For office use only)**

\*Before the Board will accept this Weed Management Plan for Approval, the Applicant must have his/her Notarized signature in place on this document. The Weed Board Chairperson will sign after Board Review and Approval.

A. Approval - _____	Date: _____
B. Approval with modifications - _____	Date: _____
C. Non-Approval - _____	Date: _____

D. Board Recommendations & Reasons: Should the Board have any recommendations to assist the landowner, or if this Plan is not approved, a letter of explanation will be sent to the landowner.

Signed:

Madison County Weed Board

Applicant/Landowner

\_\_\_\_\_  
Chairperson Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**STATE OF MONTANA    )**  
**)**       **ss.**  
**COUNTY OF MADISON    )**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.

\_\_\_\_\_  
Notary Public of the State of Montana

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**MADISON COUNTY PLANNING BOARD**  
**WEED MANAGEMENT CLAUSE**

The Subdivisions must comply with Madison County Weed Board regulations based on Montana Statutes **7-22-2216**, Unlawful to Permit Noxious Weed to Propagate, and **7-22-2117**, Violations.

1. It is the responsibility of the subdivider to contact the County Weed Control Board located at 313 E. Idaho, Virginia City, Montana, Ph# (406) 843-5594, to review the Weed Control regulations and, if requested, to jointly inspect the prospective subdivisions to determine necessary weed control measures.

2. It is the responsibility of the subdivider to review the Weed Control regulations with any buyer of one or more of his lots.

3. The initial lot purchaser and all subsequent owners are responsible for complying with County Weed Control regulations.

\_\_\_\_\_  
Buyers Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Buyers Signature

\_\_\_\_\_  
Date

**STATE OF MONTANA    )**  
                                 **)       ss.**  
**COUNTY OF MADISON   )**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.

\_\_\_\_\_  
Notary Public of the State of Montana

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

## B. Subdivisions

As stated in "VI General Provisions and Improvement Standards" of "Madison County Subdivision Regulations" (Effective January 1, 1996):

"A Weed Control Agreement must be approved by the Madison County Weed Control Board, and will be signed by the Subdivider".

And – Cost Share program under Section 7-22-2146-

Madison County will supply administrative assistance, review and personnel.

Office space, vehicle, equipment, communications equipment, computer, fax and photocopy will be supplied by Madison County. The owner will supply funds to defray the expenses incurred.

1. A Madison County Weed Board approved Weed Management Plan and Cost Share Program will be filed with the Weed Board prior to final Subdivision approval. This Plan will include:
  - a. the owner or representative's name and address
  - b. location by legal description
  - c. a vicinity or other map locating the ownership
  - d. noxious weed data
    1. types of noxious weeds
    2. approximate acres of infestations
    3. anticipated land use and other environmental concerns
    4. planned weed control activities
    5. plans for future weed control (3-5 years)
    6. owner's Notary approved signature
2. The Madison County Weed Board, or its representative, will inspect the proposed Subdivision, with consideration given to the filed Weed Management Plan as a reference for noxious weeds infesting the Subdivision acreage.
3. The Subdivider must pay a deposit/fee to defray the expenses of Subdivision inspection and subdivision Weed Management Plan and Cost-Share Program approval. Application for Subdivision Weed Management Plan review and approval shall not be accepted unless accompanied by applicable fees (Check with Weed Board for fee amount).

The Board shall deduct man hours of labor, materials, and equipment time involved in the inspection and Cost-Share Program. The Administrator shall itemize each category and send a bill to the owner. The charges due on the bill will be deducted from the deposit. Repayment shall be due 30 days from the date the bill is sent. A copy of the bill shall be submitted by the Board to the County Clerk and Recorder. The Board shall notify the Clerk and Recorder whether the bill is paid within the time designated. If it is not repaid on or before the date due, the County Clerk and Recorder shall certify the amount thereof, with the description of the land to be

charged, and shall enter the sum on the assessment list as a special tax on the land, to be collected in the manner provided in 7-22-2148 MCA.

4. After reviewing the Plan and the Subdivision site, the Plan will be acted on at the next regular meeting of the Madison County Weed Board. If the Plan is approved, an approval letter will be sent to:
  - a. the Subdivider or its representative
  - b. the Board of Madison County Commissioners
  - c. the Madison County Clerk and Recorder's office
  - d. the Madison County Planning Board

If the Plan is not approved, the Subdivider has the following options:

- a. make revision to the Plan and resubmit it
- b. request assistance for the Weed Board or its representative in revising the Weed Management Plan
- c. request an Administrative hearing pursuant to Sec. 7-22-2110, MCA.

The Madison County Weed Board considers the Subdivision Weed Management Plan process a positive means of continuing awareness and education of the need for landowners to be knowledgeable and responsible to their noxious weed problems and the Board's desire to persist with the effective management of the State and County declared noxious weeds, as is stated in the Montana-County Noxious Weed Control Act.

MC-122

## APPENDIX 19 FINAL PLAT CHECKLIST

### Section A: Completed by Subdivider

Name of Preliminary Plat:

Location:

Property Owner:

Legal Description:

Property Geocode/Parcel ID:

Date of Completion by Subdivider:

Subdivider Explanatory  
Comments:

Section B: Completed by Planner			
	Date:	By:	Comment:
Application Received:			
Clerk & Recorder Review			
Examining Land Surveyor Review (if existing)			
Signed mylar copies received:			
Submitted to governing body:			

### Section C: Completed by Subdivider and Planner

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner	
		Incomplete	OK/NA
Final Plat Application Form (Appendix 20)			
Final Plat Review Fee.			
<b><i>Final Plat or Plan</i></b> Submitted in accordance with the Montana Uniform Standards for Final Subdivision Plats			
a. Two blueline copies.			
b. Digital copy.			
c. Two (2) signed/notarized mylar plats (AFTER preliminary review complete).			
<b><i>Face of the Final Plat (or Plan) shall include:</i></b>			
d. Vicinity map.			
e. Approved land uses (e.g., agricultural, residential, commercial, industrial, mixed use)			
f. When required by the conditions of subdivision approval:			
1. Water bodies.			
2. Floodplain.			
3. Construction setback from any river or stream.			
4. Building envelopes.			
5. No-build areas.			
6. Ground elevations.			
7. Other (as required by conditions of subdivision approval).			
<b><i>Final Plat/Plan Supplements – ORIGINAL documents required at time final plat is considered by Commissioners, copies acceptable for review:</i></b>			
a. Certificate of a title abstractor (title company).			
b. Covenants (plat approval covenants and/or owner association covenants) or deed restrictions relating to the subdivision.			
c. Certificate from the Montana Department of Environmental Quality.			
d. Subdivider's certificate indicating which public improvement shave been installed.			
e. Subdivision improvements agreement and financial guaranty (bond, letter of credit, escrow agreement).			
As applicable:			
f. Bylaws for any condominium association being created at the time of final plat approval.			

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner	
		Incomplete	OK/NA
g. Certification by County sanitarian that plans and specifications for sanitary facilities (sewer, water, stormwater, and solid waste) have been approved, in accordance with Appendix 14.			
h. County road encroachment permit(s) (Appendix 23) if permit has not yet been recorded with the Clerk and Recorder.			
i. Right to Farm and Emergency Services Declarations (Appendix 22).			
<b><i>Final Plat/Plan Supplements (copies acceptable):</i></b>			
j. Letter of preliminary plat approval.			
k. Written consent of any conservation easement holder.			
l. Copy of any easement or document confirming legal access to the subdivision.			
m. Articles of incorporation and bylaws for any home owners association for the subdivision (ORIGINAL bylaws required for condominium association created at time of subdivision).			
n. Copy of county road encroachment permits recorded with the clerk and recorder.			
o. Street addressing plan approved by the county including route map showing street address ranges, driveway location distance from intersection, and specify street to serve corner lots.			
p. Copy of any pertinent water-related permits (e.g., floodplain development permit from county, stormwater discharge permit from DEQ, 404 permit from U.S. Army Corps of Engineers, and/or 310 permit from local conservation district.			
q. Copy of approval of noxious weed management plan (Appendix 18).			
r. Letter of final public safety review.			
s. Final overall phasing plan and phasing schedule			

County Comments:

## APPENDIX 20 FINAL PLAT APPLICATION FORM

Applicant Information			
Landowner(s)			
Name:			
Address:			
Telephone:			
E-mail:			
Landowner(s) Signature and Date:			
Landowner(s) Representative:			
Name:			
Address:			
Telephone:			
E-mail:			
Representative Signature and Date:			
Subdivision Information			
<b>Name of Preliminary Plat:</b>			
<b>Location:</b> (      1/4) Section                      Township                      Range			
<b>Date of Preliminary Plat Approval:</b>			
<b>Descriptive Data:</b>			
_____ Total area (of final plat) in acres:			
_____ Total acreage in lots/spaces/units:			
_____ Total number of lots/spaces/units:			
_____ Maximum size of lots:			
_____ Minimum size of lots:			
_____ Total acreage in parks, open space, and/or common facilities:			
_____ Total acreage in separate road parcels:			

<b>Land Use(s)</b> Indicate the number of lots or spaces in each category.
Residential, single family
Residential, multi-family: <i>Indicate types of multi-family structures and number of each, e.g., duplex, four-plex</i>
Mobile Home Park
Recreational Vehicle Park
Condominiums or townhouses: <i>Indicate types of structures and number of each.</i>
Planned unit development: <i>Indicate types of structures and number of each (e.g., single-family homes, multiple family structures, commercial buildings).</i>
Commercial
Industrial
Other (please describe):

Final Plat Submittal Package	
_____	Final Plat (or plan) enclosed.
_____	Final Plat Supplements enclosed.
_____	Final Plat checklist . enclosed.
_____	Final Plat review fee(s) enclosed.

**Note:**

***Pursuant to the Madison County Subdivision Regulations, the Board of Madison County Commissioners may revoke a subdivision approval if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate. Therefore, please complete the application package accurately and provide all information requested.***

# APPENDIX 21 SUBDIVISION IMPROVEMENT AGREEMENT; GUARANTY

---

[Sample adapted from State Model  
Subdivision Regulations, 2006]

## MODEL SUBDIVISION IMPROVEMENT AGREEMENT

The parties to this Subdivision Improvements Agreement ("this agreement") are \_\_\_\_\_ ("the subdivider") and \_\_\_\_\_ ("the City" or "the County").

WHEREAS, the subdivider desires to defer construction of improvements described in Attachment B;

WHEREAS, the purpose of this Agreement is to protect the City (or County) and is not intended for the benefit of contractors, suppliers, laborers or others providing work, services, or materials to the Subdivision, or for the benefit of lot or home buyers in the Subdivision; and

WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by state law and the City (or County) subdivision regulations.

NOW THEREFORE BE IT RESOLVED, The Parties hereby agree as follows:

1. Effective Date: The effective date of this Agreement shall be the date that final subdivision plat approval is granted by the City (or County).
2. Attachments: The Attachments cited herein are hereby made a part of this Agreement.

### Subdivider's Obligations

3. Improvements: The Subdivider shall construct and install, at his own expense, those subdivision improvements listed in Attachment B of this Agreement. The Subdivider's obligation to complete the improvements shall arise upon approval of the final subdivision plat, shall not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and shall be independent of any obligations of the City (or County) contained in this Agreement.
4. Security: To secure the performance of his obligations under this Agreement, the Subdivider shall deposit with the City (or County) on or before the effective date, an Irrevocable Letter of Credit (or other financial security acceptable to the local

officials) in the amount of \$\_\_\_\_\_. The letter of credit shall be issued by \_\_\_\_\_ (lending institution) \_\_\_\_\_, be payable at sight to the City (or County) and bear an expiration date not sooner than 4 years after the effective date of this Agreement. The letter of credit shall be payable to the City (or County) at any time upon presentation of (1) a sight draft drawn on the issuing lending institution in the amount up to \$\_\_\_\_\_, (2) a signed statement or affidavit executed by an authorized City (or County) official stating that the Subdivider is in default under this Agreement; and (3) the original copy of the letter of credit.

5. Standards: The Subdivider shall construct the required improvements according to the standards and specifications required by the City (or County) as specified in Attachment D of this agreement.
6. Warranty: The Subdivider warrants that each and every improvement shall be free from defects for a period of 1 year from the date that the City (or County) accepts the dedication of the last improvement completed by the Subdivider.
7. Commencement and Completion Periods: The Subdivider shall complete all of the required improvements within 1 year from the effective date of this Agreement.
8. Compliance with Law: The Subdivider shall comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this Agreement.

#### City's (or County's) Obligations

9. Inspection and Certification:
  - a. The City (or County) shall provide for inspection of the improvements as they are completed and, where found acceptable, shall certify those improvements as complying with the standards and specifications set forth in Attachment D of this Agreement. The inspection and certification, shall occur within 14 days of notice by the Subdivider that the improvements are complete and he desires City (or County) inspection and certification. Before requesting City (or County) certification of any improvement the Subdivider shall present to the City (or county) valid lien waivers from all persons providing materials or performing work on the improvement.
  - b. Certification by the City (or County) does not constitute a waiver by the City (or County) of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.
10. Notice of Defect: The City (or County) shall provide timely notice to the Subdivider whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment D, or is otherwise defective. The Subdivider shall have 30 days from the date the notice is issued to remedy the defect. The City (or County) may not declare a default under this Agreement during

the 30 day remedy period unless the Subdivider clearly indicates he does not intend to correct the defect. The Subdivider shall have no right to correct the defect in, or failure of, any improvement found after the City (or County) accepts dedication of the improvements.

11. Reduction of Security: After the acceptance of any improvement, the amount that the City (or County) is entitled to draw on the letter of credit shall be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment B. At the request of the Subdivider, the City (or County) shall execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent of the amount. Upon the certification of all of the improvements the balance that may be drawn under the credit shall be available to the City (or County) for the one year warranty period plus an additional 90 days.
12. Use of Proceeds: The City (or County) shall use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

#### Other Provisions

13. Events of Default: The following conditions, occurrences or actions shall constitute a default by the Subdivider during the completion period:
  - a. failure to complete construction of the improvements within 1 year of final subdivision plat approval;
  - b. failure to remedy the defective construction of any improvement within the remedy period;
  - c. insolvency of the Subdivider or the filing of a petition for bankruptcy;
  - d. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.
14. Measure of Damages: The measure of damages for breach of this Agreement shall be the reasonable cost of completing the improvements. For purposes of this Agreement the estimated cost of the improvements as specified in Attachment B shall be prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the letter of credit establishes the maximum amount of the Subdivider's liability. The City (or County) shall be entitled to complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever was commenced.
15. Local Government Rights Upon Default:
  - a. Upon the occurrence of any event of default, the City (or County) may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost (as shown in Attachment B) of all improvements previously certified by the City (or County). The City (or County) shall have the right to

complete improvements itself or contract with a third party for completion, or the City (or County) may assign the proceeds of the letter of credit to a subsequent Subdivider who has acquired the Subdivision and who shall have the same rights of completion as the City (or County) if and only if the subsequent Subdivider agrees in writing to complete the unfinished improvements.

- b. In addition, the City (or County) may suspend final plat approval during which time the Subdivider shall have no right to sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the City (or County) or until the improvements are completed and certified by the City (or County).
16. Indemnification: The Subdivider agrees to indemnify and hold the City (or County) harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this Agreement. The Subdivider is not an employee or agent of the City (or County).
17. Amendment or Modification: The Parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City (or County) and by the Subdivider.
18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this agreement, the prevailing party, whether plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator or mediator awards relief to both parties, each shall bear its own costs in their entirety.
19. Third Party Rights: No person or entity who is not party to this Agreement shall have any right of action under this Agreement, except that if the City (or County) does not exercise its rights within 60 days following an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the City (or County) to exercise its rights.
20. Scope: The Agreement constitutes the entire agreement between the parties and no statement, promise or inducement that is not contained in this Agreement shall be binding on the parties.
21. Time: For the purpose of computing the commencement and completion periods, and time periods for City (or County) actions, times in which war, civil disasters, acts of God or extreme weather conditions occur shall not be included if the events prevent the Subdivider or the City (or County) from performing the obligations under this Agreement.
22. Assigns: The benefits of this Agreement to the Subdivider may not be assigned without the express written approval of the City (or County). Such approval may not

be withheld unreasonable, but any unapproved assignment is void. There is no prohibition on the right of the City (or County) to assign its rights under this Agreement.

The City (or County) shall release the original Subdivider's letter of credit if it accepts new security from any Subdivider or lender who obtains the property. However, no action by the City (or County) shall constitute a release of the original Subdivider from his liability under this Agreement.

23. Severability: If any part, term or provision of this Agreement is held by the courts to be illegal the illegality shall not affect the validity of any other part, term or provision, and the rights of the parties shall be construed as if the part, term or provision were never part of the Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
City (or County) Official

\_\_\_\_\_  
Subdivider

## **ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES**

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. The irrevocable letter of credit is often the preferable guaranty because it is usually feasible for a subdivider to secure, and the local government can readily obtain funds to complete the required improvements should the subdivider default on installing the improvements. A suggested irrevocable letter of credit and commentary are included as part of this Appendix. The other common guaranties are also explained below.

The subdivider shall provide one or more of the following financial security guarantees in the amount of 125% of the engineer's estimated total cost of installing all required improvements.

### **1. Letter of Credit**

Subject to governing body approval, the subdivider shall provide the governing body an irrevocable letter of credit from a bank or other reputable institution or individual certifying the following:

- a. That the creditor guarantees funds in the amount approved by the governing body.
- b. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft without further actions, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit state in the letter.
- c. That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.

### **2. Escrow Account**

The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body.

Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

- a. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period.

- b. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

### 3. Property Escrow

The subdivider may offer as a guarantee land or other property, including corporate stocks or bonds. The value of any real property to be used, accounting for the possibility of a decline in its value during the guarantee period, shall be established by a licensed real estate appraiser at the subdivider's expense. The governing body may reject the use of property as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

When property is offered as an improvement guarantee, the subdivider shall:

- a. Make an agreement with the escrow agent instructing the agent to release the property to the governing body in the case of default. The agreement shall be placed on file with the county clerk and recorder.
- b. File with the governing body an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.
- c. Execute and file with the governing body an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the governing body.

### 4. Sequential Development

Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion, and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

### 5. Surety Performance Bond

The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond shall be payable to the County (City)

of \_\_\_\_\_. The bond shall be in effect until the completed improvements are accepted by the governing body.

6. Special Improvements District

The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA.

An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

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**MODEL  
IRREVOCABLE LETTER OF CREDIT**

Letter of Credit No. \_\_\_\_\_

Name of Local Government

Date

Address

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # \_\_\_\_\_ for the account of \_\_\_\_\_ (Subdivider) \_\_\_\_\_, available by your drafts at sight up to an aggregate amount of \$ \_\_\_\_\_. Should \_\_\_\_\_ (Subdivider) \_\_\_\_\_ default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for \_\_\_\_\_ (name of subdivision) \_\_\_\_\_ we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein; as are required to complete said improvements.

All drafts must be presented prior to \_\_\_\_\_ expiration date \_\_\_\_\_ and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

\*Drawn under \_\_\_\_\_ (lending institution) \_\_\_\_\_, Letter of Credit # \_\_\_\_\_ dated \_\_\_\_\_ (date of Letter of Credit) \_\_\_\_\_, \* and the amount drawn endorsed on the reverse hereof by the lending institution.

Unless otherwise state, this Letter of Credit is Subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts shall be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

\_\_\_\_\_  
(Lending Institution)

\_\_\_\_\_  
(Signature and Title of Official)

## APPENDIX 22    DECLARATION OF RIGHT TO FARM, DECLARATION OF EMERGENCY SERVICES INFORMATION

---

\_\_\_\_\_ of  
(Owner Names)

\_\_\_\_\_  
(Address)

“Owners” are the owners of the property situated in Madison County, Montana, more particularly described as: \_\_\_\_\_

(Name of subdivision)

### RIGHT-TO-FARM

Owners hereby declare that this property shall be held, sold, and conveyed subject to the following acknowledgments, waivers, restrictions, and conditions:

**This property is situated in an agricultural area and may be subject to conditions resulting from commercial agricultural operations on adjacent land. Such operations may include: cultivation, harvesting, and storage of crops; livestock raising; application of chemicals; operation of machinery; application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with federal and state law.**

**Such activities ordinarily and necessarily produce noise, dust, smoke, odor, and other conditions that may conflict with residential purposes. Grantees shall have no common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent land which may conflict with use of the property for residential purposes. Grantees are specifically subject to 27-30-101, MCA.**

**Adjacent property owners shall have no ingress or egress upon or across this property by virtue of this Declaration, and nothing herein shall prohibit or otherwise restrict the enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent property.**

These acknowledgments, waivers, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title, or interest in the described property or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof.

## EMERGENCY SERVICES INFORMATION

At the time of final plat filing, emergency service providers and their estimated response times under good weather conditions are:

AGENCY	RESPONSE TIME
Fire	
Ambulance	
Law Enforcement	

NOTE: In bad weather, access may be difficult or nonexistent.

In accordance with Madison County Ordinance 1-93, the road providing primary access to this subdivision is closed to vehicle traffic other than snowmobiles from December 1st of each year to April 15th of the following calendar year.

☐ Applicable      ☐ Not Applicable

**IN WITNESS WHEREOF**, the Owners have caused this instrument to be made and executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

**STATE OF MONTANA**  
**County of Madison**

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the persons whose names are subscribed to within this instrument and who acknowledge to me that they executed the same.

\_\_\_\_\_  
**Notary Public for State of Montana**

Residing at \_\_\_\_\_

My Commission expires \_\_\_\_\_

## APPENDIX 23 ENCROACHMENT (ACCESS) PERMIT APPLICATION

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Must be printed on 8 1/2" x 14" paper with a 3" blank space at the top.

### ENCROACHMENT (ACCESS) PERMIT APPLICATION MADISON COUNTY, MONTANA *All of the information below must be complete.*

#### **Application**

Name of Applicant:

Address of Applicant:

Legal Description of Land Served by Access:

Address assigned by Planning Office (406) 843-5250:

Estimated Construction Date:

**Owner/Permittee Signature:** \_\_\_\_\_

STATE OF MONTANA

County of Madison

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 200\_ before me

personally appeared \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public

Residing at:

My Commission Expires:

---

#### **Encroachment Permit**

A permit is hereby granted for construction and maintenance of an access onto the county road situated as above-described for the purpose of access from the traveled portion of said road to serve the lands above indicated.

The access must be constructed according to requirements of installation of the encroachment as follows:

This permit is granted subject to Madison County Ordinance 3-80 and all the terms and conditions thereof. The permit shall be deemed a revocable license and the terms of the permit and said ordinance shall be binding of all owners of land above described at the present or in the future.

Madison County

By: \_\_\_\_\_  
Madison County Commissioner

STATE OF MONTANA  
County of Madison

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me  
personally appeared \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public  
Residing at:  
My Commission Expires:

---

**FILING INFORMATION:** All of the above information must be complete. Send the completed permit to the Madison County Clerk and Recorder, PO Box 366, Virginia City MT 59755, with a filing fee of \$7.00 per page.

## **APPENDIX 24    SAMPLE CERTIFICATES**

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Certificate of Completion of Public Improvements

Certificate of Surveyor – Final Plat

Certificate of Dedication – Final Plat

Certificate of Consent to Dedication by Encumbrances

Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu  
Thereof

Certificate of Examining Land Surveyor Where Required – Final Plat

Certificate of County Treasurer

Certificate of Final Plat Approval – County

Certificate of Final Plat Approval – City

Certificate of Filing by Clerk and Recorder

## Certificate of Completion of Public Improvements Agreement

(To be submitted with application for approval of final subdivision plat)

### CERTIFICATE OF COMPLETION

I, (Name of Subdivider), and I, (Name of Subdivider's Registered Engineer), a registered professional engineer licensed to practice in the State of Montana, hereby certify that the following public improvements, required as a condition of approval of (Name of Subdivision), have been installed in conformance with the attached engineering specifications and plans:

(List the improvements actually installed.)

\_\_\_\_\_  
Signature of Subdivider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Professional Engineer

\_\_\_\_\_  
Date

Registration No. \_\_\_\_\_

\_\_\_\_\_  
Address

(Engineers Seal)

---

### Certificate of Surveyor – Final Plat

STATE OF MONTANA     )  
  ) ss.  
County of \_\_\_\_\_ )

I, (Name of Surveyor), a Professional Land Surveyor, do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Seal)  
Registration No. \_\_\_\_\_  
(Address)

(Signature of Surveyor)

---

**Certificate of Dedication – Final Plat**

(I) (We), the undersigned property owner(s), do hereby certify that (I) (We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat hereto annexed, the following described land in (City and County if in Unincorporated Area), to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above-described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all streets, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Acknowledged and notarized signatures of all record owners of platted property)

---

**Consent to Dedication by Encumbrancers, If Any**

(I) (We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my) (our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Acknowledged and notarized signatures of all encumbrances of record)

---

**Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof**

I, (Name of City or Town Clerk), (County Clerk and Recorder) of (Name of City or County), Montana, do certify that the following order was made by the (Governing Body) of (Name of City or County) at a meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, and entered into the proceedings of said Body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the (Name of Governing Body) that land dedication for park purposes be waived and that cash in lieu of park with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of (Name of City or County),  
Montana this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Seal)

(Signature of Clerk)

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### **Certificate of Examining Land Surveyor Where Required – Final Plat**

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for (City or County), Montana, do hereby certify that I have examined the final plat of (Name of Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Signature)

(Name of Surveyor)

Registration No. \_\_\_\_\_

(City or County)

---

### **Certificate of County Treasurer**

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) have been paid:

(legal description of land)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(seal)

(Signature of County Treasurer)      Treasurer,  
\_\_\_\_\_ County, Montana

---

### Certificate of Final Plat Approval – County

The County Commission of \_\_\_\_\_ County, Montana does hereby certify that it has examined this subdivision plat and having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(Signatures of Commissioners)

(Seal of County)

ATTEST:  
(Signature of Clerk and Recorder)  
\_\_\_\_\_, Montana

---

### Certificate of Final Plat Approval – City

The (Commission) (Council) of the City (Town) of (Name of City or Town), Montana does hereby certify that it has examined this subdivision plat and, having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

by (Signature of City or Town Clerk)  
Clerk

(Signature of Mayor)  
Mayor

---

### Certificate of Filing by Clerk and Recorder

STATE OF MONTANA )

County of \_\_\_\_\_ ) ss.  
\_\_\_\_\_ )

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, at \_\_\_\_\_ o'clock.

(Signature of Clerk and Recorder)

County Clerk and Recorder, \_\_\_\_\_ County, Montana

# APPENDIX 25 SUMMARY OF EXEMPTIONS FROM SURVEY REQUIREMENTS, SUBDIVISION REVIEW, AND SANITATION REVIEW

Exemptions from:	Surveying Requirements		Subdivision Review		Sanitation Review*	
	Exempt	Citation Allowing the Exemption	Exempt	Citation Allowing the Exemption	Exempt	Citation Allowing the Exemption
<b>Within Platted Subdivisions</b>						
Aggregation of Lots for 5 or fewer lots	No	---	Yes	76-3-207(1)(f) MCA	Yes (2)	76-4-125(2)(b),(c),(d) MCA
Boundary Relocation for 5 or fewer lots	No	---	Yes	76-3-207(1)(d) MCA	Yes (2)	76-4-125(2)(b),(c),(d) MCA
Boundary Relocation With Platted & Unplatted Land	No	---	Yes	76-3-207(1)(e) MCA	No	---
Condominiums	No	---	Yes	76-3-203 MCA	No (3)	76-4-111, MCA
<b>Outside of Platted Subdivisions</b>						
Boundary Relocation	No	---	Yes	76-3-207(1)(a) MCA	No	---
Family Transfer	No	---	Yes	76-3-207(1)(b) MCA	No	---
Agricultural Covenant	No	---	Yes	76-3-207(1)(c) MCA	Yes	ARM 17.36.605
Aggregation of Parcels	No	---	Yes	76-3-207(1)(f) MCA	No	---
Condominiums	No	---	No	---	No	---
<b>Within and Outside of Platted Subdivisions</b>						
Major Subdivision	No	---	No	---	No	---
Minor Subdivision	No	---	No	---	No	---
Eminent Domain, Condemnation, Order of Court	Yes (5)	76-3-201(a) MCA	Yes	76-3-201(a) MCA	Yes	76-4-125(2)(a) MCA
Security for Const. Mortgage, Lien, Trust Indenture	Yes (5)	76-3-201(b) MCA	Yes	76-3-201(b) MCA	Yes	76-4-125(2)(a) MCA
Oil, Gas, Water or Mining Claim	Yes (5)	76-3-201(c) MCA	Yes	76-3-201(c) MCA	Yes	76-4-125(2)(a) MCA
Cemetery Lots	Yes (5)	76-3-201(d) MCA	Yes	76-3-201(d) MCA	Yes	76-4-125(2)(a) MCA
Life Estate	Yes (5)	76-3-201(e) MCA	Yes	76-3-201(e) MCA	Yes	76-4-125(2)(a) MCA
Farming and Agricultural Lease (6)	Yes (5)	76-3-201(f) MCA	Yes	76-3-201(f) MCA	Yes	76-4-125(2)(a) MCA
Location where State does not have Jurisdiction	Yes (5)	76-3-201(g) MCA	Yes	76-3-201(g) MCA	Yes	76-4-125(2)(a) MCA
Rights-of-Way, Utility Sites (6)	Yes (5)	76-3-201(h) MCA	Yes (6)	76-3-201(h) MCA	Yes (6)	76-4-125(2)(c) MCA
Airport Land for Lease, Rental	Yes (5)	76-3-205(1) MCA	Yes	76-3-205(1) MCA		
Certain State-Land Divisions	Yes	76-3-205(2) MCA	Yes	76-3-205(2) MCA	No	---
Highway Acquisition	Yes	76-3-209 MCA	Yes	76-3-209 MCA	Yes	ARM 17.36.605
Retracement Surveys	No	---	Yes	Implicit	Yes	Implicit
Correction Survey	No	---	Yes	Implicit	Yes	Implicit
Affidavit of Correction	Possibly	Implicit	Yes	Implicit	Yes	Implicit
Notes						
1 This is a summary only, intended to show the various exemptions in a simple format. Specific provisions of this Code and State law apply in all cases.						
2 Exempt only when the lots are served by public water and sewer, or the plat indicates such facilities will not be erected.						
3 Exempt unless subdivision causes facilities previously approved to deviate from conditions of approval. See ARM 17.6.605						
4 Exempt only when the subdivision meets all of the requirements as outlined in Section 76-4-124, MCA.						
5 A survey may be filed if the applicable exemption is cited on the face of the plat.						
6 Subsequent change in use requires subdivision review						
* Sanitarian exemption shall be stated in entirety on survey						

# APPENDIX 26 REQUEST FOR EXEMPTION REVIEW

Note to Applicant: The purpose of this review is to enable Madison County officials to determine whether or not the proposed use of an exemption from local subdivision review would evade the Montana Subdivision and Platting Act. You will be notified of the Exemption Review Board's decision within 20 working days of submittal of a complete application to the Madison County Clerk and Recorder's Office. A complete application consists of the review fee and 3 copies of the request for exemption review, certificate of survey (as required) and supporting documents.

<b>1. Landowner</b> <i>(if more than two landowners, please attach additional sheets)</i>	
A. Name	E-mail:
Address	Phone
B. Name	E-mail:
Address	Phone
<b>2. Surveyor</b>	
Name	Firm
Address	Phone
<b>3. Existing Parcel(s)</b> <i>(if more than two parcels, please attach additional sheets)</i>	
A. Location _____ Section _____, Township _____ Range _____	
Other Legal Description:	
Geocode # 25- _____ - _____ - _____ - _____ - _____ - _____ <div style="display: flex; justify-content: space-around; width: 100%;"> <span>(2)</span> <span>(4)</span> <span>(2)</span> <span>(1)</span> <span>(2)</span> <span>(2)</span> <span>(4)</span> </div>	
When was the parcel created <i>(example: Occasional Sale COS 999, 5/1/92)?</i>	
Has a subdivision application for the parcel been withdrawn or denied? ____Yes ____No	
B. Location _____ Section _____, Township _____ Range _____	
Other Legal Description:	
Geocode # 25- _____ - _____ - _____ - _____ - _____ - _____ <div style="display: flex; justify-content: space-around; width: 100%;"> <span>(2)</span> <span>(4)</span> <span>(2)</span> <span>(1)</span> <span>(2)</span> <span>(2)</span> <span>(4)</span> </div>	
When was the parcel created <i>(example: Occasional Sale COS 999, 5/1/92)?</i>	
Has a subdivision application for the parcel been withdrawn or denied? ____Yes ____No	

<b>4. Type of Exemption and Reason or Justification</b>		
<input type="checkbox"/> <b>Gift or Sale to Immediate Family Member ("Family Transfer")</b>		
Recipient(s)	Relationship to Claimant	Age
<ul style="list-style-type: none"> <li>• Attach copies of all deeds, contracts, restrictions and covenants related to this property recorded within the past year.</li> <li>• If recipients are under age 18, attach documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act., etc.</li> </ul>		
Date Landowner(s) became sole owner(s) of parcel to be divided.		
<input type="checkbox"/> <b>Agricultural Exemption</b>		
Description of current and proposed agricultural use:		
Explanation of eligibility under 15.7.202, MCA:		
<input type="checkbox"/> <b>Relocation of Common Boundary Lines Outside or Adjoining a Platted Subdivision</b>		
Describe and provide documentation showing the need or reason for the relocation: (attach supporting documentation)		
<input type="checkbox"/> <b>Lot Aggregation/Relocation of Common Boundary Lines within Platted Subdivision</b>		
Describe and provide documentation showing the need or reason for the relocation: (attach supporting documentation)		
<input type="checkbox"/> <b>Security for Construction ("Mortgage Exemption")</b>		
Attach signed and notarized statement from lending institution confirming that the exempt parcel is necessary to secure a construction loan for buildings or other improvements on the parcel or for refinancing.		
<input type="checkbox"/> <b>Other</b>		
Reason/justification:		

<b>5. Intentions for Use</b>	
Claimants' and recipients' intentions for the use of each parcel (including existing, new and remainder parcels) <i>(i.e. will the parcel(s) be used for agriculture, residences, etc.?)</i> :	
<b>6. Intentions for Disposition</b>	
Claimants' and recipients' long term and short term intentions for the disposition of each parcel (including existing, new and remainder parcels) <i>(i.e. after this transaction is finalized, will the parcel(s) be retained by recipient, sold, gifted, etc.?)</i> :	
<b>7. Attachments</b>	
	Certificate of Survey
	Certificate of Exemption, signed and notarized
	Copies of recorded deeds documenting present ownership for all affected parcels.
	Copies of draft deeds for exchange of ownership, if any exchange is proposed.
	Copies of draft deed restrictions or covenants, if any.
	Documentation supporting the proposed exemption.
	(Family Transfer) Copies of all deeds, contracts, restrictions and covenants related to this property recorded within the past year.
	(Family Transfer) If recipients are under age 18, documentation of trust, custodianship pursuant to the Montana Uniform Transfers to Minors Act, etc.
	(Mortgage Exemption) Statement from lending institution confirming need.
	(Ag Exemption) Draft deed(s) for transferring property or copy of agreement to buy and sell.

**8. Acknowledgements** (initialed by all landowners)

• **I understand** that the State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the Montana Subdivision and Platting Act.

**Landowner Initials:** (A) \_\_\_\_\_ (B) \_\_\_\_\_

• **I affirm** that this exemption claim is not an attempt to evade the Montana Subdivision and Platting Act.

**Landowner Initials:** (A) \_\_\_\_\_ (B) \_\_\_\_\_

• **I recognize** that I may be subject to penalty if my actions are deemed to be an effort to evade subdivision review, as set forth in the Montana Code Annotated:

- 76-3-301(3). If transfers not in accordance with this chapter [i.e., Chapter 3, Local Regulation of Subdivisions] are made, the county attorney shall commence action to

enjoin further sales or transfers and compel compliance with all provisions of this chapter. The cost of such action shall be imposed against the party not prevailing.

- 76-3-105 Violations. Any person who violates any provision of this chapter [i.e., Chapter 3, Local Regulation of Subdivisions] or any local regulations adopted pursuant thereto shall be guilty of a misdemeanor and punishable by a fine of not less than \$100 or more than \$500 or by imprisonment in a county jail for not more than 3 months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of this chapter or any local regulation adopted pursuant thereto shall be deemed a separate and distinct offense.
- 45-7-201. Perjury.
  - (1) A person commits the offense of perjury if in any official proceeding he knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made, when the statement is material.
  - (2) A person convicted of perjury shall be punished by imprisonment in the state prison for any term not to exceed 10 years or shall be punished by a fine of not more than \$50,000, or by both such fine and imprisonment.
  - (3) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law.
  - (4) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made upon oath or affirmation at any time when the offender presents it as being so verified shall be deemed to have been duly sworn or affirmed.
  - (5) No person shall be guilty of an offense under this section if he retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.
  - (6) Where the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.
  - (7) No person shall be convicted of an offense under this section where proof of falsity rests solely upon the testimony of a single person other than the defendant.
- 45-7-202. False swearing.
  - (1) A person commits the offense of false swearing if he knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of such a statement previously made when he does not believe the statement to be true and:
    - (a) the falsification occurs in an official proceeding;
    - (b) the falsification is purposely made to mislead a public servant in performing his official function; or
    - (c) the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.
  - (2) Subsections (4) through (7) of 45-7-201 apply to this section.
  - (3) A person convicted of false swearing shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

Landowner Initials: (A)\_\_\_\_\_ (B)\_\_\_\_\_

**9. Affidavit (required from all landowners)**

\_\_\_\_\_, Landowner(s),  
being first duly sworn upon oath, deposes and says as follows:

I, as Claimant, have read the foregoing Subdivision Exemption Claim Application and affirm  
that it is true and correct.

\_\_\_\_\_  
*Landowner's Signature* Date\_\_\_\_\_

\_\_\_\_\_  
*Landowner's Signature* Date\_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(seal)

Notary Public for the State of \_\_\_\_\_

Residing at\_\_\_\_\_

My commission expires\_\_\_\_\_

# APPENDIX 27 EXEMPTION REVIEW BOARD CHECKLIST

Received: \_\_\_\_/\_\_\_\_/\_\_\_\_ By: \_\_\_\_  
 Application Complete: \_\_\_\_/\_\_\_\_/\_\_\_\_ By: \_\_\_\_

COS or Subdivision Plat Name: \_\_\_\_\_  
 (owner) (type)

Type of Exemption Requested:

- ☐ Agricultural Covenant ☐ Boundary Adjustment ☐ Family Transfer  
☐ Lot Aggregation ☐ Mortgage ☐ Other \_\_\_\_\_

1. Review fee submitted	Check # _____
2. Completed Appendix T (3 copies):	
(a) Information provided for all landowners	
(b) Signatures from all landowners	
(c) Landowner representative information	
(d) Legal description of properties involved	
(e) Basis for exemption	
3. Certificate of Survey (3 copies, if required)	
4. Draft Deeds (if transferring property)	
5. Supporting documentation (3 copies)	
6. Scheduled Review Date	____/____/____
7. Applicant Notified of Meeting On	____/____/____
8. Meeting Was Duly Noticed	

## Landowners

(1)Name: \_\_\_\_\_

(2)Name: \_\_\_\_\_

## Property Legal Description

Parcel ID/Geocode: 25-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_  
 1/4 Section: \_\_\_\_\_ Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_

Subdivision Name/ Certificate of Survey #:

\_\_\_\_\_

Parcel/Tract # \_\_\_\_\_ Lot # \_\_\_\_\_ Block # \_\_\_\_\_

EXEMPTION REVIEW BOARD – Meeting Date: \_\_\_\_\_

Determination, based on attached review:

- ☐ Approved or Approved with Condition(s) (See Conditions/Comments). The approval expires 180 days from the date of the exemption review board determination.
- ☐ Submittal incomplete or inaccurate. Return to applicant for revisions. If second submittal is found incomplete or inaccurate, application will be denied and a new application and fee will be required.
- ☐ Deny (See Condition(s)/Comments)

**Conditions/Comments:**

- ☐ Taxes to be paid in full at time COS is presented for filing.
- ☐ Deeds transferring property required at time COS is presented for filing.
- ☐ Correct Sanitation Exemption. \_\_\_\_\_
- ☐ RSID payoff required for (*# or specific parcels*) \_\_\_\_\_.
- ☐ Review by examining land surveyor at applicant's expense is required.
- ☐ Corrections required: \_\_\_\_\_  
\_\_\_\_\_
- ☐ 1. Update water rights (through Montana Dept. of Natural Resources and Conservation).
- ☐ 2. \_\_\_\_\_
- ☐ 3. \_\_\_\_\_

Signatures of Exemption Review Board Members:

\_\_\_\_\_  
Sanitarian

\_\_\_\_\_  
Planning

\_\_\_\_\_  
Clerk and Recorder

\_\_\_\_\_  
Date

Applicant Notified of decision by Clerk & Recorder on \_\_\_\_\_.

A landowner whose exemption request has been denied may submit a written appeal of the decision to the governing body within twenty (20) working days after receiving notification of the exemption review board's decision. The appeal must be accompanied by an explanation of why the proposed exemption should be approved. The governing body may reverse the decision of the exemption review board.

NOTE: Approved exemptions must be submitted for filing within 180 days of the exemption review determination date.

## APPENDIX 27                      EXEMPTION REVIEW CHECKLIST (*Part 2*)

**General Criteria** – In its review of an exemption request, the exemption review board shall consider all of the surrounding circumstances. These circumstances may include, but are not limited to: (a) the prior history of the tract in question; (b) whether the claimant has engaged in prior exempt transactions involving the tract; (c) the configuration of the tracts if the proposed exempt transaction is completed; and (d) any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

General Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
1. Tract history			
2. Claimant's prior exemption history involving the tract			
3. Resulting tract configuration			
4. Pattern of Development – Exemption(s) does/does not result in the equivalent of a subdivision without local subdivision review. If any of the following conditions exist, a pattern of development is presumed.	Does not	Does	
(a) <b>Original Tract Less Than 20 Acres:</b> more than three parcels (i.e., two exempt parcels and a remaining parcel) have/have not been divided from the original tract of less than 20 acres regardless of ownership by use of exemptions of the Act;	Have not	Have	

General Criteria	Acceptable	Not Acceptable	Discussion/Comment/Condition
<b>(b) Original Tract 20 Acres Or More:</b> more than four parcels under 20 acres (i.e., three exempt parcels and a remaining parcel) have/have not been divided from the original tract of 20 acres or more, regardless of ownership, by use of exemptions of the Act;	Have not	Have	
<b>(c) Use of exemption(s) contiguous to platted lots</b> where common roads are shared or the exempted tracts have similar shape or size to the platted lots, or the exempted tracts are being created by the same landowner who created the platted lots.	Does not meet description	Meets description	
5. Other Circumstances			

**Family Conveyance [76-3-207(1)(b), MCA]** The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family (See Appendix A for definition) without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.

<b>Family Conveyance Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/Condition</b>
FC 1. The proposed new parcel would/would not result in a pattern of development.	Would not	Would	
FC 2. The division is/is not made for the purpose of speculation by the grantor or for resale for the benefit of the grantor by using the grantee as a "straw person".	Is not	Is	
FC 3. A transfer of a parcel of land by one family member to another, by quitclaim deed, followed by an attempted use of this exemption.	Does not meet description	Meets description	
FC 4. The transfer is/is not the second or subsequent family transfer of property owned by the grantor to the same member of the immediate family.	Is not	Is	
FC 5. The name of the grantee and relationship to the grantor do/do not appear on the face of the proposed Certificate of Survey.	Do	Do not	
FC 6. The grantee is/is not also one of the grantors.	Is not	Is	
FC 7. The grantee is/is not a minor child and the trustee is the grantor.	Is not	Is	
FC 8. The property is/is not a parcel created through the family conveyance exemption which was transferred within three (3) years of the parcel's creation.	Is not	Is	

<b>Family Conveyance Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/ Condition</b>
FC 9. The affidavit of intent is/is not incomplete or missing.	Is not	Is	
FC 10. The tract proposed for division was/was not previously created through the use of an exemption.	Was not	Was	
FC 11. The proposed use of the family conveyance exemption would/would not create more than one remainder parcel of less than 160 acres.	Would not	Would	
FC 12. The exempted parcel is/is not being divided from a tract that was previously created through the use of an exemption, including remaining tracts of less than 160 acres.	Is not	Is	
FC 13. There is/is not evidence at the time of review indicating that the proposed new tract is intended to be sold.	Is not	Is	
FC 14. This exemption is/is not an alternative to a proposed subdivision for which an application has been submitted.	Is not	Is	
FC 15. The proposed exemption is/is not located within a subdivision platted since July 1, 1973 (76-3-207(1)(b), MCA).	Is not	Is	

**Agricultural Exemption [76-3-207(1)(c), MCA]** - The intention of this exemption is to allow a landowner to create a parcel without local subdivision and sanitation review, where the land will be gifted, sold, or there is an agreement to buy and sell the divided land, which will be used only for the raising of crops or livestock or for the preservation of open space, and where no residential, commercial or industrial buildings will be built.

<b>Agricultural Exemption Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/Condition</b>
AE 1. Documentation of the intent to gift, sell, or an agreement to buy or sell the divided land is/is not included as supporting documentation with the application.	Is	Is not	
AE 2. The proposed covenant to run with the land is included as supporting documentation with the application.	Is	Is not	
AE 3. The landowner has/has not demonstrated that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings have been or will be built on it.	Has	Has not	
AE 4. The parcel does/does not met the criteria for an agricultural exemption under 15-7-202, MCA.	Does	Does not	
AE 5. The appropriate sanitation exemption is/is not cited.	Is	Is not	

**Boundary Adjustment or Aggregation [76-3-207(1)(a) and (d), MCA]** - The intended purpose of this exemption is to allow a change in the location of a boundary line between two adjoining parcels and to allow a transfer of a tract to effect that change in location without local subdivision review.

<b>Boundary Adjustment/Aggregation Specific Criteria</b>	<b>Acceptable</b>	<b>Not Acceptable</b>	<b>Discussion/Comment/Condition</b>
BA 1. Certificate of survey claiming the exemption does/dose not clearly distinguish between the existing boundary location and the new boundary and includes the appropriate landowner certification.	Does	Does not	
BA 2. Certificate of survey does/does not include the appropriate landowner certification.	Does	Does not	
BA 3. The boundary adjustment will/will not result in the permanent creation of an additional parcel of land.	Will not	Will	
BA 4. The submitted documentation does/does not support the stated reason for relocation.	Does	Does not	
BA 5. The proposed relocation of common boundary lines does/does not significantly rearrange multiple parcels with little or no resemblance to the original parcel configuration.	Does not	Does	
Where the boundary adjustment will affect more than one set of landowners:			
BA 6. All affected landowners did/did not sign the application for exemption.	Did	Did not	
BA 7. A quit claim deed from the adjoining property owner(s) for the newly described parcel or parcels is/is not included.	Is	Is not	

**Mortgage Exemption [76-3-201(1)(b), MCA]** - Division to Provide Security for a Mortgages, Liens or Trust Indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes.

<b>Mortgage Exemption Specific Criteria</b>	<b>Acceptable</b>	<b>Evasion Presumed</b>	<b>Discussion/Comment/Condition</b>
ME 1. Application includes a signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel.	Includes	Not included	
ME 2. More than one new building site will/will not be created.	Will not	Will	
ME 3. The financing is/is not for construction or improvements on the exempted parcel, or for refinancing.	Is	Is not	
ME 4. The person named in the statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed is / is not anyone other than the borrower of funds for construction or refinancing.	Borrower	Anyone but the borrower	
ME 5. Title to the exempted interest would/would not be initially obtained by the lending institution in the event of foreclosure.	Would	Would not	
ME 6. There is/is not a prior agreement to default or a prior agreement to purchase only a portion of the original tract.	Is not	Is	
ME 7. It does/does not appear that the principal reason the interest is being created is to create a building site and using the interest to secure a loan is a secondary purpose.	Does not	Does	

<b>Mortgage Exemption Specific Criteria</b>	<b>Acceptable</b>	<b>Evasion Presumed</b>	<b>Discussion/Comment/ Condition</b>
ME 8. The division of land is/ is not created for the purpose of conveyance to any entity other than the financial or lending institution to which the mortgage, lien or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture.	Is not	Is	
ME 9. Creates no more than one parcel under one hundred sixty (160) acres from the original tract.	Meets description	Does not meet description	

<b>OTHER EXEMPTIONS:</b> Other exemptions allowed under MCA 76-3-201
--

<b>Other Exemption (MCA 76-3-201)</b>	<b>Acceptable</b>	<b>Evasion Presumed</b>	<b>Discussion/Comment/ Condition</b>
(a) Court Order MCA 76-3-201 CO1. Was/was not created by court order. CO2. Governing body was/was not notified by court (include written comment by governing body).	Was created  Notified	Was not created  Not notified	
(c) Surface Ownership Severed – Interest in oil, gas, minerals, or water severed from surface ownership.	Applies	Does not apply	
(d) Cemetery Lots.	Applies	Does not apply	
(e) Reservation of life estate.			
(f) Lease or rental for farming and agricultural purposes.			
(g) State does not have jurisdiction.			
(h) Rights-of-way or utility sites.			Subsequent change in use to residential, commercial, or industrial use subject to subdivision review



## APPENDIX 29 REQUEST FORM TO LIFT AN AGRICULTURAL EXEMPTION

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### Part I. Landowner Information

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Date of Request \_\_\_\_\_

Signature \_\_\_\_\_

### Part II. Property Information

Location/Legal Description \_\_\_\_\_

\_\_\_\_\_

Date of Agricultural Exemption Approval \_\_\_\_\_

Exemption Filing Information (Book, Page) \_\_\_\_\_

**Part III. Please describe your reason for requesting the agricultural exemption be lifted. *Note: In order to have your agricultural exemption lifted, you must go through the subdivision process and have the parcel created as a subdivided lot.***

\_\_\_\_\_

\_\_\_\_\_

### Part IV. Governing Body Decision

This request is hereby: \_\_\_\_\_ **Approved** \_\_\_\_\_ **Denied**

Reason: \_\_\_\_\_

\_\_\_\_\_  
Signature of Board of County Commission Chairperson

\_\_\_\_\_  
Date

## APPENDIX 30 VARIANCE APPLICATION FORM

---

1. **Project Name** \_\_\_\_\_
  
2. **Landowner Information**  
  
Name: \_\_\_\_\_  
  
Address: \_\_\_\_\_  
  
Telephone: \_\_\_\_\_  
  
Signature: \_\_\_\_\_ Date \_\_\_\_\_
  
3. **Describe the requested variance.** \_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_
  
4. **Describe how the requested variance meets each of the following criteria**  
(Attach additional pages as needed):
  - a. The variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties.
  - b. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced.
  - c. The variance will not cause a substantial increase in public costs.
  - d. The variance will not in any manner place the proposed subdivision in non-conformance with any adopted zoning regulations or in substantial non-compliance with the Madison County Growth Policy.
  
5. **As appropriate, discuss whether or not the variance is a part of an innovative development proposal which does not circumvent the purpose of the Madison County Subdivision Regulations.**
  
6. **Provide names and addresses of all adjoining property owners. Provide documentation that written notification of the variance request has been provided to them, plus any existing property owners association potentially affected by the project as determined by the planner.**

## **APPENDIX 31 FLOODPLAIN EVALUATION CHECKLIST**

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To initiate the permit process, submit two copies of the following information items to the Planning Office. These instructions apply to all construction/projects within any designated 100-year floodplain as delineated on the FHBM's, FIRM's, SCS/CRCS floodplain maps, COE floodplain maps, etc.

1. A list of adjacent property owners and their mailing addresses. (You can get this information from the County Clerk & Recorder's Office)
2. A letter from each property owner where the project will be completed authorizing the proposed work.
3. A detailed site plan, drawn to scale, showing the following:
  - Property boundary lines of the subject property and those in the immediate vicinity of the project (you may obtain a copy of the surveys in the Clerk & Recorder's Office).
  - Approximate location of all floodplain boundaries in the vicinity of the project as depicted on the Floodplain Maps available at your local office.
  - Location of existing improvements in the vicinity of the project, including drive ways, roads, culverts, bridges, buildings, wells, septic systems, and other improvements.
  - Location of all existing physical features in the vicinity of the project, including ponds, swales, streams, and irrigation ditches.
  - Location and dimensions of all proposed improvements, including driveways, roads, culverts, bridges, ponds, buildings, wells and other structures.
  - Location for all fill that will be brought into the floodplain.
4. A statement specifying the amount of fill that will be placed within the floodplain and supporting calculations.
5. For a house, submit:
  - The existing ground elevation at the location of the proposed house and the calculated height of the 100-year floodplain (You will need to work with a land surveyor to obtain this information.) Calculations for the amount of fill (in cubic yards) to be placed in the flood plain [see Administrative Rules Sec.36.15.702(1a)].
  - Specifications for the fill material (type of material, sizes, etc.).
6. For any other building, submit:
  - A drawing of the building.
  - A statement indicating which of the two development standards will apply [see Administrative Rules Sec.36.15. 702(2)].

7. For bank stabilization, submit:
  - A description of existing conditions.
  - A historical overview of trends in the river movement, if any.
  - A description of the problem.
  - A description of the objectives of the project.
  - A short description of design alternatives that were considered, if any, but rejected, and an explanation of why each one was rejected.
  - Typical cross-section (based on survey data) of the river from bank to bank, which shows the existing condition and proposed treatment and the height of the 100-year flood event, the base flow elevation, and the bank full elevation.
  - A longitudinal profile of the river surface and bed in the project area.
  - A plan view (using an aerial photograph as a base) of the project area which shows the beginning and ending points of the treatment and the various types of treatment.
  - Specifications for the treatment material (type of material, sizes, quantities, etc.
  - Calculations to show that the proposed project will not raise the elevation of the 100-year flood more than six inches above the 100-year flood elevation as documented on the flood plain maps available in your local office.
  - A description of the project implementation (project phases, sediment control, staging areas, cleanup, etc.).
8. For a bridge, submit:
  - Drawings and specifications for the bridges as certified by professional engineer.
  - Calculations for the amount of fill to be placed in the floodplain.
  - A cross-section at the location of the bridges which shows the existing condition and the elevation of the 100-year flood event.
9. For a pond, submit:
  - A description of existing conditions.
  - A description of the objectives of the project.
  - Calculations for the amount of material to be removed from the pond.
  - A description of where the material will be placed outside of the floodplain.
10. For a road(s), submit:
  - A description of existing conditions.
  - A description of the objectives of the project.
  - Calculations to show that the culverts will be large enough to handle the expected flows.

11. Other:

Once your final application is received, it will be reviewed to make sure the information is sufficient. If it is not sufficient, you will receive a letter that explains the deficiencies. A decision will be made within 60 days of when your application is deemed sufficient. As part of the review process, the adjoining property owners will be notified letting them know about the proposed work, and a legal notice placed in the paper of general circulation containing a brief description of the application.

## APPENDIX 32    AMENDED PLAT CHECKLIST

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### Section A: Completed by Subdivider

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Amended Plat Title:

---

Location:

---

Property Owner Name & Address:

---

Engineer/Surveyor & Address:

---

Legal Description:

---

Property Geocode/Parcel ID:

---

Date of Completion by Subdivider:

---

Subdivider Explanatory Comments:

Section B: Completed by Planner			
	Date:	By:	Comment:
Application Received:			
Exemption Review Board Review:			
Clerk & Recorder Review			
Examining Land Surveyor Review (if existing)			
Signed mylar copies received:			
Taxes paid, Treasurer signature:			
Submitted to governing body:			

**Section C: Completed by Subdivider and Planner**

Items and Information, Filled Out by: (Note if Not Applicable)	Subdivider	Planner	
		Incomplete	OK/NA
Amended Plat Review Fee.			
<b><i>Final Plat or Plan</i></b>			
Submitted in accordance with the Montana Uniform Standards			
a. Three blueline copies.			
b. Digital copy.			
c. Two (2) signed/notarized mylar plats ( <u>AFTER</u> preliminary review complete).			
<b><i>Face of the Final Plat (or Plan) shall include:</i></b>			
a. Vicinity map.			
b. Commissioner signature block.			
c. Applicable sanitation exemption statements			
d. Requirements set by exemption review board as conditions of approval.			
<b><i>Final Plat/Plan Supplements – ORIGINAL documents:</i></b>			
a. Certificate of a title abstractor (title company).			
b. New covenants (plat approval covenants and/or owner association covenants) or deed restrictions relating to the subdivision.			
c. Certificate from the Montana Department of Environmental Quality (if not exempt)			
<b><i>As applicable:</i></b>			
d. Certification by County sanitarian that plans and specifications for sanitary facilities (sewer, water, stormwater, and solid waste) have been approved (if not exempt).			

County Comments:

## APPENDIX 33     REQUEST FOR BUILDING ENVELOPE CHANGE

<b>1. Landowner</b>	
A. Name  Address	E-mail:  Phone
<b>2. Representative</b>	
Name  Firm  Address	E-mail:  Phone
<b>3. Homeowners/Property Owners Association or Architectural Review Board</b>	
Name  Contact  Address	E-mail:  Phone
<b>4. Property</b>	
Lot_____, Block_____, Subdivision_____	
Plat Book_____, Page_____	
Geocode # <b>25</b> -_____-_____-_____-_____-_____-_____ (4)    (2)    (1) (2)   (2)    (4)	
Is building envelope platted? No <input type="checkbox"/> Yes <input type="checkbox"/> <i>If Yes, then an amended plat is required.</i>	
<b>5. Submittal Checklist</b>	
<input type="checkbox"/> Review Fee <input type="checkbox"/> Narrative describing proposed change and purpose <input type="checkbox"/> Map showing existing and proposed building envelopes, total size of existing and proposed building envelopes, topography (labeled contour intervals), existing structures <input type="checkbox"/> Site specific geotechnical report, as required (generally required for Big Sky area) <input type="checkbox"/> Homeowners/Property Owners/Architectural Committee review and approval (may be subject to concurrence by Madison County) <input type="checkbox"/> Amended Plat Checklist and submittal (if required)	

## APPENDIX 34 PRELIMINARY PLAT EXTENSION FORM

<b>1. Project Information</b>
Project Name: _____
Preliminary Plat Approval Date: _____
Date and period of previous preliminary plat extensions: _____
Proposed time extension length: _____
<b>2. Subdivider information</b>
Name: _____
Address: _____
Telephone: _____
Signature: _____ Date _____
<b>3. Describe the requested extension, addressing the following points</b> (Attach additional pages as needed): <ul style="list-style-type: none"> <li>a. Progress made in complying with the conditions of preliminary plat approval;</li> <li>b. Circumstances which have affected the timing of the subdivision development;</li> <li>c. The extent to which any significant changes in the area have occurred or are expected to occur during the time of the extension period; and</li> <li>d. Whether or not the provision of public facilities and services in the area will be disrupted by the requested extensions.</li> </ul> <p><b>NOTE: See II-F2 for review process and criteria</b></p>
<b>OFFICE USE ONLY</b>  Extension Request Received on ____/____/____ by _____  Fee paid on ____/____/____  Materials deemed complete on ____/____/____ by _____  Site inspected on ____/____/____ by _____  Notice of Planner's recommendation and review by Commissioners sent to subdivider on ____/____/____ by _____  Scheduled for review at County Commission meeting at _____ on ____/____/____